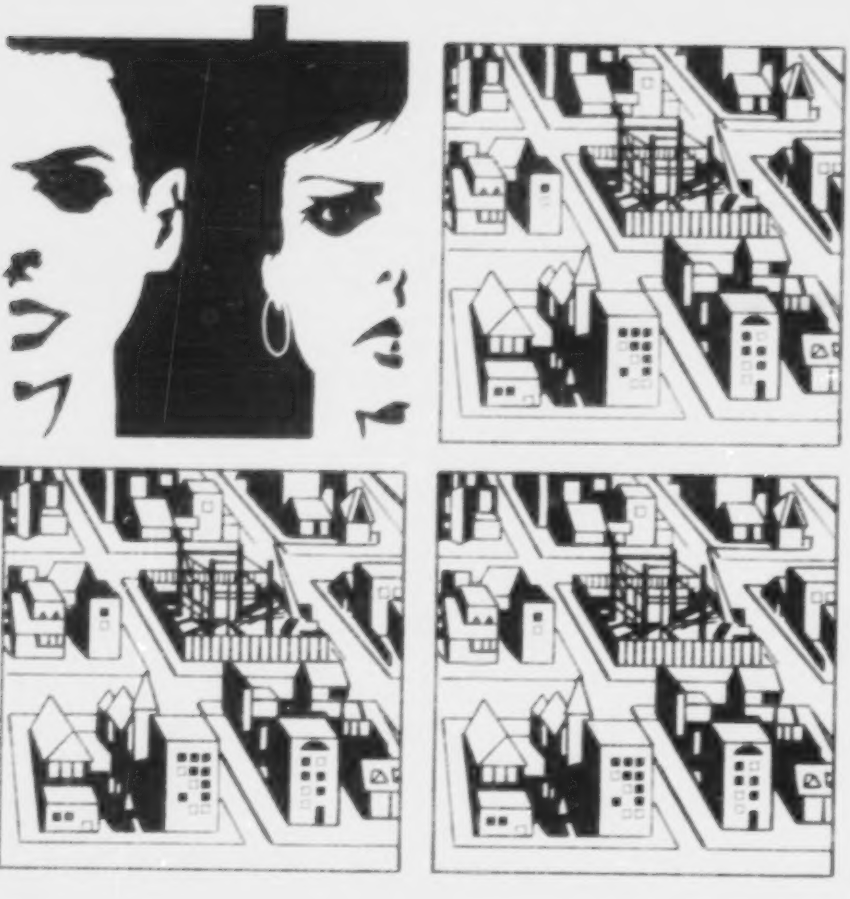
STREET PROSTITUTION

Assessing the impact of the law

Montreal



Department of Justice Canada   Ministère de la Justice Canada

STREET PROSTITUTION:
ASSESSING THE IMPACT OF THE LAW

MONTREAL

Robert Gemme
with the assistance of Nicole Payment
and Lucie Malenfant

Centre québécois de recherche et d'expertise en sexologie

and

The Sexology Department (UQAM)

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INTRODUCTION

1. Sociopolitical Context

Bill C-49, an Act to amend the *Criminal Code* (prostitution), was given Royal Assent on December 20, 1985, and became law. This act (hereinafter known as "Bill C-49" or "the law") is aimed specifically at street soliciting for prostitution. By passing it, Parliament repealed the old section 195.1 (soliciting) of the *Criminal Code* and replaced it with a new section 195.1 which was designed to control street soliciting more effectively. This section makes it a criminal offence to communicate or attempt to communicate with or stop another person in a public place (including a vehicle parked in a public place) for the purpose of engaging in prostitution. The new section 195.1 states:

> Offence in Relation to Prostitution
>
> 195.1(1) Every person who in a public place or in any place open to public view
>
> (a) stops or attempts to stop any motor vehicle,
> (b) impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place, or
> (c) stops or attempts to stop any person or in any manner communicates or attempts to communicate with any person
>
> for the purpose of engaging in prostitution or of obtaining the sexual services of obtaining the sexual services of a prostitute is guilty of an offence punishable on summary conviction.
>
> (2) In this section, "public place" includes any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view.

A clause in the law calls for a review of the new act that must start no later than three years after Royal Assent, and be completed no later than one year after the review begins. The Senate Committee, for its part, recommended that this review start eighteen months after Royal Assent and be completed within the following six months.

Although not required to do so, the Minister of Justice accepted the recommendation and said he would try to comply. It is in this context then that the present evaluation of five major centres, including Montreal, and eight minor centres was carried out.

2. Background

In answer to concerns about street soliciting voiced by many citizens' groups, mayors and police forces from 14 urban centres across the country between 1980 and 1983; the Minister of Justice, in 1983, established a special Committee on Pornography and Prostitution (the Fraser Committee). It was instructed to study the two issues in depth. The Fraser Committee presented its report in May 1985 (Fraser *et al.*, 1985). It contains over one hundred recommendations of which about fifteen apply to adult prostitution. On the subject of street soliciting, the Committee suggested that any legislation should address the nuisance caused to citizens. The Committee added: "This means that interference with members of the public or to occupiers must be proven" (Fraser, 1985 p. 540). In this connection the Committee recommended repealing section 195.1 of the *Criminal Code* because:

> Whatever the doctrinal weaknesses in the case law, the Committee is convinced that both the caution with which the courts now treat section 195.1 and the conviction in the ranks of law enforcers that it is worthless have deprived it of any force (*ibid*, p 541).

To fight street soliciting nuisances effectively, the Committee recommended amending section 171 of the *Code*, which already addressed some nuisances (*ibid*), and adding, among other things, a paragraph (d) that would directly address street soliciting nuisances.

The Fraser Committee arrived at this recommendation through analysis of the case law, opinions from all who made public submissions at the Committee's hearings and the results of empirical research by the Department of Justice's Research and Statistics Section.

The section was given a mandate to carry out a program supporting the Committee's work. To achieve this goal, five field studies of prostitution were conducted by various research teams from January to June 1984. The aim was to pinpoint, as exactly as possible, the scope of the problem Parliament was to either include in or remove from the *Criminal Code*. Parliament needed to know whether prostitution was behaviour that might require oversight by the criminal justice system. These studies' findings were published in individual reports, including ours (Gemme *et al.*, 1984).

The studies were an attempt to gather qualitative and quantitative data on all aspects of prostitution (male and female prostitutes and clients, pimps, middle men, street, bar, hotel, massage parlour and escort agency prostitution) and means of controlling it (whether through the legal system or social agencies). These studies were conducted in some twenty cities, large and small, all over the country. In Quebec, the cities of Montreal, Quebec, Trois-Rivières and Sherbrooke were chosen.

It was following the outcome of these studies and the influence of other factors, that the amendment to section 171 was proposed. The government preferred, however, to replace the former section 195.1 with a new one which, according to the Minister of Justice, was in keeping with the spirit of the Fraser Committee's recommendation. In his speech to the House of Commons Standing Committe on Justice and Solicitor General, he said that Bill C-49 addressed the same problem, but would do so more efficiently.

Finally, a review mechanism was included in the bill to measure its impact.

A EVALUATION OF THE LAW IN MONTREAL

I STUDY OBJECTIVES

Our mandate was to evaluate the application and impact in of the law amending the *Criminal Code* (prostitution) in Montreal. Specifically, the study had two general objectives.

The first was to see if the legislation's goals had been met. It must be remembered that Bill C-49's goal was to curb communication for the purpose of prostitution in public places, including vehicles. The bill's secondary goals are to facilitate enforcement for the police and Crown attorneys and to allow the law to be used against prostitutes and their clients. To determine if these goals had been met, the study analyzed enforcement in the wake of the bill's passage.

To analyze enforcement methods, the study sought:

(a) to gather qualitative and quantitative data on controlling prostitution in Montreal following Bill C-49. Among other things, we wanted to know how the police enforced this law, with what methods and with what degree of success. We also wanted to know legal procedures from laying charges to sentencing. Consequently, we had to examine pertinent court decisions. Specifically, we had to answer these questions:

  (a) How do police enforce the law? Have special units been set up? Have special policies been developed? Has new staff been hired for this? How are arrests made?
  (b) Who is charged? Prostitutes? Clients?
  (c) Are prostitutes and clients treated equally by the police and legal system?
  (d) How many charges result from investigations? Under what circumstances are charges laid or dropped?
  (e) Has enforcement had an impact on investigations into other forms of prostitution?
  (f) Do those charged plead guilty or not guilty? How many are convicted? What sentences are handed down?

(g) How many decisions has the Court handed down? Have there been significant decisions in terms of case law?
(h) How do police, judges, Crown attorneys, defence lawyers and social workers perceive the law?

In analyzing prostitution practices, our central aims were:

(b) to gather qualitative and quantitative data on prostitution in Montreal following passage of C-49. Obviously, we wanted to know how street soliciting was affected. We also wanted to know what had become of other forms of prostitution (public soliciting in bars or hotels, massage parlours, escort agencies, want ads and others). Also, we wanted to know what had become of the people who practise prostitution or live within its sphere: male and female, minor and adult prostitutes, clients, pimps and so forth. More specifically, we had to try to answer the following questions:

    (a) Has the law helped reduce public soliciting? If so, to what extent? If not, why not?
    (b) Has it contributed to a geographic or spatial shift in street prostitution?
    (c) Has the law contributed to a shift in prostitution from the street to bars, hotels, escort agencies, message parlours, classified ads and so forth?
    (d) Has the law altered prostitution practices for those involved: prostitute-client relations, presence of pimps, age and sex of prostitutes?
    (e) What impact has it had on neighbourhoods where street prostitution is or was practised? What about other forms of prostitution?
    (f) What impact has the law had on juvenile prostitution?

The second general objective was to ascertain the law's impact on the community, i.e. social or medical services, citizens and the print media. More specifically, we had to try to answer the following questions:

(a) Has enforcement of C-49 affected demand by prostitutes for social or medical services?
(b) Are citizens and merchants satisfied with enforcement?
(c) How have the print media portrayed the law?

The next chapter explains how we operationalized the research questions. It highlights the limitations and difficulties of evaluative research into enforcement directed against street prostitution.

II METHODOLOGICAL CONTEXT

1. Limitations and Difficulties of Research to Evaluate a Federal Law

Certain difficulties, which are inherent in any evaluation of a federal law and restrict its scope, need to be emphasized.

Regional Characteristics

Where the administration of justice is concerned, regional characteristics may make it difficult to gather comparable data. It is, for example, impossible to obtain quantitative information on juvenile prostitution in Quebec. Officially, such activity barely appears in statistics because, as a rule, those under eighteen are not brought before the courts. Quebec's *Youth Protection Act* allows police to refer young prostitutes to a social protection agency, instead of prosecuting them under the *Young Offenders Act*. As referrals state that a young person is dealing with problems other than prostitution, no statistics are available.

In Montreal Municipal Court, the presence of a defence lawyer is mentioned too infrequently in records to provide reliable data. Thus, it is impossible to check if sentences are affected by the presence or absence of a lawyer.

The police files we consulted belonged to the Section de la Coordination/Moralité (C/M, Co-ordination/Morality Section) and contained only morality records. So, we could not get information about other criminal activity in the files on prostitutes and clients in our sample.

Lastly, because Montreal has no government, municipal or private social agency that works specifically with adult prostitutes, little information is available.

Difficulty of Obtaining Before and After Data

The data needed for a before-after comparison are not always available when an evaluation of a new law is recommended. While it is easy to describe a situation after legislation is enacted, it is sometimes difficult to evaluate whether certain problems result from enactment of legislation, or existed beforehand. For example, because no systematic count for the period before C-49 is available, it is not easy to estimate shifts in the numbers of street prostitutes.

Assessing how many street prostitutes have moved to other forms of prostitution also poses some problems. We do not know what percentage of prostitutes made such a career change before the law was passed.

Limitations to Comparisons Between the 1984 and 1987 Studies

To better understand the law's impact, we had to compare, when possible, the 1987 results with those obtained in 1984 (Gemme *et al.*, 1984). While some comparisons were easy, others were difficult, awkward or impossible because the research mandates and methods were different.

In 1984, we were supposed to provide a description of prostitution as a business and the social controls applicable to it. We had to describe prostitution according to type (heterosexual, homosexual and transvestite/transsexual); its forms (street, escort, massage and so forth); its cyclical fluctuations (daily and seasonal); its financial aspects (income and expenditures); its geographic localisation; mobility and those involved (prostitutes, pimps, clients and middlemen). We also had to describe prostitutes' and clients' sociodemographic and personal characteristics by interviewing as many prostitutes and clients as we could and as exhaustively as possible.

Regarding social controls, we had to describe enforcement attempts since the *Hutt* decision, enforcement practices at the time and the insights of those concerned (police, Crown attorneys, judges and citizens). We also studied the social services available to adult prostitutes. The study did not cover juvenile prostitution which was examined by the Badgley group.

In 1987, our mandate was primarily to evaluate the law's impact on prostitution practices and anti-soliciting enforcement. This included juvenile prostitution and extended to media outlooks. Because each study had a different focus and selection criteria, only certain aspects could be compared.

Social controls (police enforcement, evidence and sentences) and the views of those involved in dealing with prostitution (police, Crown attorneys, judges and citizens), for example, can be compared very accurately. It is harder, however, to compare prostitution practices and those engaged in them.

In 1987, we did not interview as many subjects as possible, but rather prostitutes who were familiar with the periods before and after C-49. Moreover, in 1984 the emphasis was on describing the milieu and those in it, while in 1987 we focused on evaluating enforcement. Thus, in 1987 we interviewed only 31 prostitutes and 6 clients, compared to 75 prostitutes and 28 clients in 1984. In both cases, these samples can only represent probabilities as our knowledge of those involved in prostitution is incomplete. Moreover, since the selection criteria are different, comparisons between the two groups can only be suggestive.

Questions about prostitutes' experience, which in 1984 were a priority, were secondary in 1987. The core of the 1987 questionnaire dealt with the law's impact. That is why comparisons between family and sexual history, introduction to the trade, alcohol and drug abuse and types of services offered are impossible. Little or no information was collected on this in 1987. We can, however, compare data on types of prostitution, age and education, years of experience and criminal record, estimated number, geographic location, daily and weekly variations, prices and income, job security and lastly prevalence or procuring.

Difficulties in Evaluating the Law's Impact on the Number of Street Prostitutes

The most important question we had to answer was how effective the law had been in reducing the number of street prostitutes. To do this, a comparison between 1984 and 1987 would have been quite useful, if we had comparable data. But in 1984 we did not anticipate that the new legislation would require an evaluation. Consequently, information on the number and location of prostitutes in Montreal in 1984 derives not from systematic counts, as were made in 1987, but rather from overall estimates by police and those involved with prostitution ind different ways.

As we will see in Chapter IV, systematic comparisons can only be made from very rough and widely varying overall estimates.

Resorting to systematic counts in 1987 will give us the basic data necessary for future evaluations. Knowing, as accurately as possible, the number of prostitutes in a given spot at a given time will allow the Department to compare cities, checking such points as whether prostitutes numbers relate directly to the fact that prostitution is a problem. It may be assumed that in some cities, the problem is not so much the number of prostitutes as where they work. Only comparison of systematic counts from different geographic locations will allow this type of analysis.

Concomitant Factors

The presence of certain other factors that go with the law may make the interpretation of results more difficult. For example, some respondents attributed part of the decline in street prostitution to fear of AIDS. Others attributed the proliferation of nude dancer-prostitute clubs to changes in morality and the lure of profits rather than the impact of Bill C-49.

Subjectivity in Measuring Items

Lastly, in studying a recent sociolegal phenomenon, some evaluations arise more from a subjective than an objective viewpoint. Often, there are no objective measurements available. This is true, for example, in evaluating the deterrent effect of sentences, the law's impact on prostitutes' safety or the number of clients and so forth.

2. Limitations on Research into Prostitution

This research was conducted under difficult conditions, because communication for the purposes of prostitution is now a crime. Since January 1986, prostitutes and clients have been operating more illegally than in 1984-85. In the past, prostitutes offering their services on the street were only breaking a municipal by-law. They only risked fines and were not subject to bail conditions. The by-law did not apply to clients. This situation resulted from police refusal to apply other sections of the *Criminal Code* (s.169 on indecent acts, for example) to control the problem.

In 1987, clients and prostitutes were hunted down more regularly, rigorously and unpredictably. Moreover, enforcement was mainly by plainclothes policemen and women. Our first attempts at contact confirmed that there was widespread apprehension which intensified periodically throughout the summer when the police stepped up enforcement. We often ran into frightened, mistrustful people who constantly on their guard because they were afraid that they were dealing with an undercover officer. The purpose of our research and nature of our questions did little to dissipate doubts.

It was harder to get interviews with persons in the milieu than it had been in 1984, even after being around for a long time. That is why we interviewed only 32 prostitutes and six clients, compared to 81 prostitutes and 33 clients in 1984.

The same problem arose with massage parlours and escort agencies which were raided several times in 1986 and 1987. For example, 26 message parlours were identified in 1985, but in 1987 only six remained. There is no point in detailing the problems of getting interviews in such places with receptionists or owners.

When we finally did get an interview, it was not always in circumstances conducive to lengthy discussion. Often, such interviews were held on the corner of a bar, at a table in a noisy restaurant, between the comings and goings of clients, etc. It was not always possible to get answers to all our prepared questions.

Despite these difficulties, we tried, within time and budget constraints, to apply a methodology that would produce as scientific a report as possible.

3. Methodology Used

3.1 Selection of Respondents and Their Characteristics

At the outset, using the Department of Justice's guidelines, we identified several groups of people who could give us a full understanding of anti-street prostitution enforcement after Bill C-49's passage. They were:

- members of the Montreal Urban Community Police Department (MUCPD) and the Quebec Police Force, Montreal District (QPF);
- Montreal Municipal Court judges and Crown attorneys;
- the Clerk of the Municipal Court;
- defence lawyers;
- social workers dealing with adult prostitutes;
- citizens and merchants directly affected by street prostitution;
- prostitutes, clients and pimps (including owners of massage parlours and escort agencies;
- juvenile prostitution specialists.

In the course of our research, we contacted:

- owners of nude dancer employment agencies;
- hotel security staff.

Some persons, who had been working around the milieu for a long time but were not part of the groups listed above, served as resource persons.

3.11 Members of the Montreal Urban Community Police Department (MUCPD) and the Quebec Police Force (QPF) (N=34)

In the Montreal region, two police forces deal with prostitution. The MUCPD operates exclusively in the 28 municipalities of the Urban Community. (The area under the jurisdiction of Montreal Island's metropolitan government, the Montreal Urban Community). The QPF operates mainly in suburban municipalities and is more specifically interested in "bawdy-houses" (massage parlours, escort agencies and nude dancer and prostitute clubs) outside the MUCPD's territory.

3.111 Montreal Urban Community Police Department (MUCPD) (N=32)

We interviewed the director of legal services at the MUCPD, who knew the situation prior to the law and had helped draft two municipal by-laws (5464 in 1980 and 6249 in 1983) aimed, directly or indirectly, at street prostitution. They were drafted because the old section 195.1 could not be enforced. He has been Director of Legal Services for 11 years. His duties include providing legal support for police strategies to enforce the *Criminal Code's* new Section 195.1.

Regular police enforcement against prostitution is decentralized. There are police operations run from several places: the Co-ordination/Morality (C/M) Section of the MUCPD, the morality section of the organized crime division (Moralité DCO), the morality unit of the regional intervention section for the central region (Centre SIR), Station 33 (Main) and Station 34 (Lafontaine Park).

C/M's director and analyst provided liaison between researchers and most police department respondents. The respondents were all considered representative and included supervisors, liaison officers, investigators and some police officers at the stations.

During our research, we were able to interview all those who seemed likely to provide information about particular points (districts, hotel complaints and so forth).

We were able to do this thanks to cooperation from two officers at the station houses and some supervisors.

First, we thought that about fifteen interviews would be enough. As figures 1 and 2 show, however, we interviewed 32 people, several of them twice or even three times, for periods ranging from 30 minutes to 12 hours (spread over several interviews), for an average of about three hours.

The reason for these many interviews with the MUCPD is that in Montreal, anti-prostitution enforcement is decentralized in seven units (C/M, organized crime division morality section, Centre and North regional intervention sections (SIR Centre and SIR North), Station 33, Station 34 and Juvenile Court).

Thus at the MUCPD we met:

- Legal Services (dealing with the legal aspects of police operations):
    - the Director of Legal Services
- Co-ordination/Morality Section:
    - the section's director who had been in the job for three years;
    - the section analyst, who had held the job 18 months. His main duties were to report on the situation on the basis of statistics, co-ordinate inquiries, provide strategic support, train police officers, set up information networks and prepare operations by programs;
    - a sergeant acting as liaison officer, responsible for prostitution cases in Municipal Court, who had been in the job for three years.
- Organized Crime Division, Morality Section (Moralité DCO)
    - the Section Commander, who had been in the job for three years. He often worked on the street with his officers;

  - a detective sergeant, who had held the position two years;
  - five investigators, including two policewomen, who worked undercover.

- SIR Centre:

  - the chief, new to his position, but with a lot of experience in prostitution cases;
  - a morality unit staff sergeant, who had been in the job 1 1/2 years;
  - two investigators from the same unit, who had been in their jobs for five years and 18 months (but who had 14 years experience in morality cases);
  - an intervention unit detective sergeant; this unit works with the morality unit during "blitzes" (clean¯up operations);
  - a Centre region (central area) analyst, who has been in the job six months after first serving as information coordinator at station 33. He provided statistical and tactical support.

- Station 33 ("Main" Sector, Heterosexual Prostitution)

  - the director who had has been in the job for 18 months;
  - a sergeant who has been in his job for six years;
  - two officers responsible for organizing the district restrictions operation (a bail condition imposed when an habitual prostitute makes first court appearance before a judge and pleads not guilty). One had held his job for five years, the other for three;
  - a youth police investigator who had dealt with juvenile prostitution cases, among others, for 8 1/2 years.

- Station 34 (Lafontaine Park District, Homosexual Prostitution)

  - a lieutenant responsible for the Park Project which, during the summer of '87, was organized to drive homosexuals from the park.
  - a police sergeant, from the juvenile division, who had fought juvenile prostitution for ten years;
  - three officers who had held their jobs 10, seven and three years.

- SIR North
    - the chief who had been in the job for 10 years;
    - an official who had been responsible for the morality unit from spring 86 to spring 87;
    - an investigator, formerly in the same unit for four years. These two persons had witnessed many operations against bawdy-houses (especially escort agencies) since Bill C-49.
- Other Resource People:
    - the director of Station 24, who is now the MUCPD's representative for the hotel security directors association;
    - the MUCPD liaison officer for Juvenile Court.

3.112 Montreal District, Quebec Police Force (N=2)

Our mandate called for us to check the law's impact on the movement of street prostitutes towards other forms of prostitution, such as massage parlours, escort agencies and nude dancer-prostitute clubs. Since these activities mainly occur outside MUC territory, we interviewed two persons from the Quebec Police Force (provincial police):

- the sergeant in charge of the vice squad. He had one year of experience in fighting prostitution;
- a corporal responsible for the sexuality section of the vice squad who had been in the job for seven years.

3.12 Municipal Court Judges and Crown Attorneys

3.121 Judges (N=3)

In Montreal, prostitution cases are heard in Municipal Court. None of the 13 judges specializes in prostitution, since each of them hears morality cases every 13 weeks. As the Chief Justice had not sat for more than a year, he referred us to three of his colleagues:

- the first because on September 30, he was to rule on the constitutionality of the law. He had been hearing prostitution cases for nine years and had heard more than 230 cases since Bill C-49;

- the second because he had extensive experience as a judge. He had been hearing prostitution cases for 3 1/2 years and had heard about 750 cases since C-49;
- the third to give a women's viewpoint. She had been hearing prostitution cases for five years and ruled on about 450 cases since Bill C-49.

3.122 Crown Attorneys (N=3)

Four Crown attorneys specialize in morality cases. That is why the Chief Crown Attorney referred us to the Crown attorney in charge of these cases. He has 13 years of experience in handling prostitution cases. He, in turn, referred us to two of his colleagues, the first because he was involved in the challenge to the constitutionality of the law, and the second because of his lengthy experience with prostitution cases. They had two and six years experience respectively in the field, and had acted in about 500 and 1,000 prostitution cases since Bill C-49.

3.13 Defence Lawyers (N=4)

When we began our research, we attended the trial which was the first challenge to law's constitutionality. We met one of the legal aid lawyers involved in that case. He later suggested that we meet one of his colleagues who was involved in a case challenging the legality of using an undercover policewoman, a case on which the Quebec Court of Appeal was to rule in 1988. We also interviewed two lawyers who were directors of the municipal section of Legal Aid. These lawyers had 1 1/2, two, four and 13 years' experience and had represented about 175, 400, 300 and 150 accused parties since Bill C-49.

3.14 Social and Medical Workers Involved with Adults (N=5)

We also wanted to find out if the law had increased or decreased supply and demand for social and medical services for adult prostitutes. To this end, we identified the main agencies or organizations serving an big clientele of adult prostitutes.

We should make it clear that only one organization has been working with adult prostitutes since Bill C-49 became law: the Alliance for the Safety of Prostitutes. Accordingly, we interviewed its co-founder and another association representative.

We also interviewed a criminologist from the Elizabeth Fry Society which works with women in trouble with the law, including prostitutes. The criminologist had been working there for three years.

In addition, we interviewed a sexologist, who is also a social worker, and is employed by the Metropolitan Montreal Social Services Centre (MMSSC) at Municipal Court. He had been in his job for 12 years.

There is a Community Health department which operates very close to the area where heterosexual prostitution is practised. It is known, among other things, for its innovative services to fight STDs. We questioned the chief physician, who had nine years' experience working with prostitutes' clients. He had contributed, among other things, to doing away with the Public Health Act requirement that prostitutes be tested for STDs and obtain treatment prior to release.

3.15 Citizens and Merchants (N=7)

No citizens' group in Montreal is officially fighting prostitution. Hence we decided to interview citizens and merchants who had laid charges:

- a resident of Pine Avenue;
- the principal of a primary school on Pine Avenue;
- a resident of Plan Dozois (Habitations Jeanne-Mance, a low-income housing project), near Boisbriand Street;
- a fur merchant from St-Denis Street near Christin, who was spokesman for a group of five merchants.

We also decided to interview persons with businesses in the red-light district on St. Catherine Street. The subjects were the owner of an up-market discotheque and two restaurateurs.

3.16 Prostitutes, Clients and Pimps (N=41)

We also were charged with interviewing a number of prostitutes, clients and pimps, despite the circumstances of illegal activity and anxiety. There was no way of obtaining statistics which accurately reflected reality. That would be impossible for this type of population. Instead, we wanted to question respondents who knew enough about the periods before and after C-49 to allow us to compare certain aspects from their testimony or the 1984 research, when feasible.

It is important to make it clear that in such circumstances, it is almost impossible to guarantee that respondents are representative. We had to accept every opportunity for an interview that came our way. Because of this, respondents were not randomly selected. We did, however, rely on a student researcher to fit into the environment, in order to gain reliable interviews.

It will be readily understood that too direct or brash an approach, under such circumstances, would not produce interviews. In an environment that has a reputation for being very tight-lipped, we had to recognize that we were starting a long-term project based on the building mutual trust among one of the researchers and the target groups of our study. Fitting into the environment by stages proved the best strategy. The researcher was always in the same little café where prostitutes and clients gathered, always at the same time of day and surrounded by the same familiar faces. Gradually she made contact, and a relationship of trust developed. After that, frank cooperation with the first nucleus of respondents became possible. Then the word went around: the researcher was all right. She had readier access to other people from the milieu, whose trust she had to win before she asked for an interview. That is why, lacking large numbers of interviews, we relied on the quality of the ones we did obtain.

3.161 Women Prostitutes and Transvestites/Transsexuals (N=26)

We first ventured into the milieu in April 1987 with a prostitute who had given up the profession a few months earlier. We had contacted her following presentation of a play on prostitution in which she told her story. With her, we began visiting cafés, bars and other places where St. Catherine Street prostitutes gather. She introduced the researcher to prostitutes whom she knew well and whom it was very easy to set up interviews. They had, however, one common characteristic: they too had recently left the street and cut back substantially on their activities, keeping only their regular clients and occasionally working in bars.

We then directed our efforts towards prostitutes still working the street. We asked for help from the Alliance for the Safety of Prostitutes (ASP). Unfortunately, its officials could not help us because ASP was being reorganized and its volunteers had not worked the street for a long time.

Meanwhile, our few attempts to built contacts failed. The researcher was even threatened by one prostitute. This incident showed us how vital it was to develop a climate of trust before seeking an interview.

That was when gradual integration with the environment began. First we focused on a café recommended by the prostitutes we had already met, because the easiest girls to approach were there. One of the researchers met a man there who had been in the field for more than 30 years. He was to become what they call a "buddy" for her. Like a kind of mentor, he helped the researcher blend into her surroundings. This allowed her to build trust and friendship and contact prostitutes with a variety of work methods, ranging from the most discreet to the most flamboyant and including those engaging in criminal activities.

Police cooperation also allowed us to meet with other respondents. They allowed the researcher to spend two nights at the Centre SIR and interview prostitutes after their arrest.

Aware that this form of interview, also used with clients, posed ethical problems, we insisted that arrested prostitutes and clients should not be pressured to meet with the researcher. The police told them that researchers were evaluating the law and that cooperation was optional. Consequently, all those arrested, rather than waiting alone for the outcome of police identity checks and the drafting of charges, agreed to talk with researchers.

As Table 1 shows, we questioned 19 female prostitutes and seven prostitutes whose biological sex was male but who disguised themselves as female to offer heterosexual prostitution to men. We identify the second group as transvestite/transsexual prostitutes, because all seven believed they were emotionally women and perceived themselves as heterosexual in their relations with men.

3.162 Homosexual Prostitutes (N=5)

It was easier to contact male homosexual prostitutes. In Lafontaine Park, where the majority work, the atmosphere is much more relaxed. A policeman from station 34 organized the first interview with a woman prostitute from the area. She later introduced the researcher to men who might agree to answer her questionnaire. Because the answers we gathered were so similar, we had a good idea of what the law's impact might be on this target group, especially in this area, after a few interviews.

3.163 Juvenile Prostitute (N=1)

We only succeeded in contacting one juvenile prostitute, a boy. According to some informants, juvenile prostitution is a clandestine phenomenon. The young people belong to impenetrable networks or work in different places from adults. Furthermore, they are much more reluctant to open up about their experience as prostitutes, even to social workers and street workers.

To try to contact them for a field interview would have required very lengthy preparation which we could not afford. Moreover, given that these young people are not affected by the law (since juvenile prostitutes when arrested are dealt with under the *Youth Protection Act*), such an undertaking would have been difficult to justify.

3.164 Clients (N=6)

Although it was unexpected, clients approached one of the researchers by mistake. She took advantage of this to explain her about her research. Three of them agreed to reply to the questionnaire. The others, afraid they were dealing with a policewoman, refused.

Another respondent was an acquaintance of this researcher. The remaining two were seen immediately after their arrest, during the two nights the researcher spent at the Centre SIR. This allowed us to interview clients going through the arrest process. Again, they had the choice not participating.

3.165 Pimps (N=3)

The first contacts with pimps were made by chance. The first was a regular at the same café as one of the researchers. Although he was quickly identified as a pimp, we had to wait before asking him to complete the questionnaire. Many pimps deny being what they are.

The second came forward of his own volition. He stopped in at the café, found out about the researcher and why she was there, then came to offer her his cooperation.

Many attempts were made to contact owners of agencies (escort, massage or other), but none was successful. Telephone calls failed completely. Visiting agencies in person was of little use, since most published addresses are false. Eventually, a police officer known to one of the researchers arranged an interview with a massage parlour owner. It must be noted that many police operations were carried out against massage parlours and escort agencies in 1986 and 1987, whether by the Quebec Police Force, the SIR North or Moralité DCO. This made it impossible to contact more respondents. Blending in with the surroundings, the approach used to reach prostitutes and pimps, does not work in parlours and agencies, unless one joins the staff.

3.17 Juvenile Prostitution Specialists (N=8)

Since juvenile prostitution operates in a hidden fashion and we had only one respondent from this group, we contacted legal and social experts who know the field. In addition to the police officer mentioned earlier (youth police and Juvenile Court liaison officer), the following people were interviewed:

- a Crown attorney who had worked in Juvenile Court for four years, dealing with juvenile prostitution among other problems;
- the division chief, outreach-liaison team, Youth Protection Branch, for six years;
- a criminologist who had been a consultant with the youth protection branch for six years;
- two social workers from the south central and north central social services offices. These two people had recently written a book on the topic (Dorais and Ménard, 1987);
- a member of the Fraser Committee, noted for her knowledge of the subject. Although she is now a judge at the St-Jérôme Juvenile Court, her expertise warranted including her in our study;
- a defence lawyer specializing in juvenile prostitution who had cooperated with the NFB on an audio-visual production;
- the coordinator of the minor prostitute intervention project (PIaMP), the only service available specifically directed at young prostitutes. Our respondent had been a street worker for seven years.

3.18 Owners of Nude Dancer Employment Agencies (N=3)

In order to check the possible movement of street prostitutes into dancing clubs, we questioned three owners of employment agencies for nude dancers.

3.19 Hotel Security Officers (N=2)

To determine how the law had affected prostitution in hotels, we interviewed the chairman of the hotel security directors association. He was security director of a hotel near the prostitution district. We also interviewed a woman security director from another hotel who had repeatedly complained about undesirable prostitutes.

To conclude this section on respondents, their selection and their characteristics, let us make it clear that, as much as possible, we tried to interview people who knew the pre and post Bill C-49 periods. We were largely successful, for the 111 people we contacted 100 (90%) met those criteria.

We also met with the Clerk of Municipal Court. The Clerk briefed us on the court's operations and the disposition of cases. Tables 1 and 2 present the overall and detailed distribution of our respondents in Montreal.

FIGURE 1

RESPONDENTS IN MONTREAL BY MAJOR CATEGORY (N=11)

Category	Number
Director of Legal Department, MUCPD*	1
MUCPD Police Officers	31
Quebec Police Force Officers	2
Municipal Court Judges	3
Municipal Court Crown Attorneys	3
Clerk of Municipal Court	1
Defence Lawyers	4
Adult Medical and Social Workers	5
Citizens	3
Merchants	4
Juvenile Prostitution Specialists	8
Owners of Nude Dancer Employment Agencies	3
Hotel Security Managers	2
Adult Heterosexual Prostitutes	19
Adult Homosexual Prostitutes	5
Adult Transsexual Prostitutes	7
Juvenile Prostitute	1
Clients	6
Pimps	3
TOTAL	111

* Montreal Urban Community Police Department

FIGURE 2

DETAILED BREAKDOWN OF MONTREAL RESPONDENTS (N=111)

Categories and Subcategories			Number
Director of Legal Department, MUCPD			
Police Officers:			33
- MUCDP Police		31	
- Police Supervisors	17		
- Other Police	14		
- Quebec Police Force		2	
- Police Supervisor	1		
- Other Police Officer	1		
Municipal Court Judges			3
Municipal Court Crown Attorneys			3
Clerk of Municipal Court			1
Defence Lawyers			4
Adult Medical and Social Workers			5
- Alliance for the Safety of Prostitutes		2	
- Elizabeth Fry Society		1	
- CSSMM (Court Social Service)		1	
- Community Health Department		1	
Citizens		3	
- Residents		2	
- Primary School Principal		1	
Merchants			4
- Restaurant Owners		2	
- Fur Merchant		1	
- Discotheque Owner		1	
Juvenile Prostitution Specialists			8
- Juvenile Court Crown Attorney		1	
- Social Workers		5	
- Defence Lawyers		1	
- Fraser Committee Member and Juvenile Court Judge		1	

FIGURE 2 (continued)

DETAILED BREAKDOWN OF MONTREAL RESPONDENTS (N=111)

Categories and Subcategories			Number
Owners of Nude Dancer Employment Agencies			3
Hotel Security Managers			2
Adult Prostitutes			31
- Women Prostitutes		19	
- Street and Bar Prostitutes	17		
- Bar and Hotel Prostitutes	2		
- Homosexual Prostitutes		5	
- Street Prostitutes	3		
- Street and Bar Prostitutes	2		
- Transexual Prostitutes (Street and Bars)		7	
Juvenile Prostitute			1
Clients			6
Pimps			3
- Of Street Prostitutes		2	
- Of Massage Parlour Prostitutes		1	—
TOTAL:			111

* Montreal Urban Community Police Department

3.2 Information Gathering Techniques

In order to answer the questions posed in the statement of work, we proceeded; by interview, by blending in with the surroundings to observe prostitution activities and enforcement practices and by systematic counting of street prostitutes.

It was also necessary to analyze the statistics in police and court records, significant judgments, classified advertisements and newspaper content.

3.21 Interviews

3.211 Content

We developed the content of our interview guides mainly from the questions in the statement of work, the notes taken at the Cazès trial (before the Ottawa meeting, dealing with a constitutional challenge to the legislation) and clarifications to the questionnaires drawn up by the Quebec researchers at a meeting of the five Canadian researchers with the scientific adviser.

Very formal interview grids were designed for police supervisors (Appendix 1), other police officers (Appendix 2), judges (Appendix 3), Crown attorneys (Appendix 4), defence lawyers (Appendix 5), social and medical agencies (Appendix 6), prostitutes (Appendix 7), clients (Appendix 8) and pimps (Appendix 9).

For several of these groups, interviews covered the law's effect on the different aspects of their organizations and duties (operations, policy, practice, strategy and difficulties), the law's impact on prostitutes' practices and their view of it. It included a section on recommendations to Parliament. In every case, we tried to obtain a comparison of before and after C-49

Other respondents were questioned about specific points affecting them. Among these were merchants and citizens, the director of legal services, juvenile prostitution specialists, hotel security managers and owners of employment agencies for nude dancers.

The grids were made up of open and closed questions. Several questions called for clarification of an earlier answer.

3.212 Procedures

Nearly all our answers were obtained in person-to-person interviews. On four occasions, people insisted on being accompanied for interviews. This was the case with the Quebec Police Force supervisor, who preferred to answer questions with his corporal beside him.

Five interviews dealing with specific points that did not require in-person meetings were done by telephone. Among these were the interviews with the school principal, some clarification interviews with people already seen and the SIR North chief and the station 34 lieutenants.

Most interviews were conducted in the interviewee's usual surroundings, normally at his workplace. Four interviews took place in a restaurant to save the interviewee's time.

All interviews with prostitutes were conducted in person, in cafés or restaurants, in the prostitute's home (twice) or occasionally in a resource person's apartment. During the two nights at the police station, interviews took place in a small room where the researcher could be alone with the respondent.

In some cases, when time was short, we tried to get the most essential information for our research. That is why in the personal characteristics section, for example, there may be unanswered questions. This should be seen as a result of time pressure rather than a refusal to reply.

3.213 Duration

Depending on the interviewee, sessions ranged in length from 12 hours for the director of the co-ordination/morality section, to 15 minutes for the owner of a nude dancer employment agency. The average interview was two and one-half hours.

3.22 Observation

3.221 Observation of Prostitution Practices

As mentioned earlier, there was a tense atmosphere among prostitutes and pimps in the wake of many enforcement blitzes. It was impossible to get information on prostitution practices by simply asking questions or standing on a street corner. There was too much distrust in the air.

That is why we decided to plant a student in the milieu for four months. She was completing a bachelor's degree in sexology at University Of Quebec's Montreal Campus and, consequently, had already developed outlooks that were compatible with marginal sexual groups. Her student status made her less threatening. Her subject area of sexology student made her more interesting.

During these four months, the student researcher frequented the same cafés and bars as prostitutes, pimps and clients. She belonged to the "gang". That is how prostitution practices were observed. She became so thoroughly integrated that in the end, she herself "gave off heavy vibes" (having picked up the tension, nerves and violence of her surroundings).

3.222 Observation of Enforcement

3.2221 Police Enforcement

In addition to visiting prostitution locales, accompanied by police officers, and having several prostitutes of both sexes pointed out to us, we were able to take part in a regular bi-monthly blitz. The researcher, charged with this aspect of the assignment, accompanied the supervisor in the unmarked car from which he directed the operation. The other researcher accompanied the undercover policewoman as if they were a team. Thus, she was present during solicitation and the arrest of clients. When we returned to the station after the arrests, we were able to follow the different steps of identification, record check, photographing the suspect and release or detention.

We even had an opportunity to interview five clients and one prostitute. Our involvement was limited to assessing the psychological impact of arrest and the extent to which AIDS was taken a concern for clients and prostitutes. (These people were not included in our count of prostitutes and clients because the interviews were too short). This was the only way we could operate, because of the difficulty of contacting clients.

At another time, we were able to closely observe the updating of the area restrictions violation control system. This was done by means of a miniature book and a special photographic file of people under area restrictions.

3.2222 Court Enforcement

To learn more about the judicial process and the reaction of accused persons, we attended four court appearances involving clients and prostitutes. It also happened that the Cazès trial, challenging the law's constitutionality, was held during our first month of research. We also were present for the judgement, four months later.

3.23 Analysis of Overall Police and Court Statistics

Since January 1986, the Co-ordination/Morality section has kept monthly statistics of offence under ss.193, 195 and 195.1 (Appendix 10) and has statistics for violations of municipal by-laws 5464 and 333-3(a).

The section's analyst gave us the above statistics, adding some of his monthly reports on prostitution.

Some information could not be obtained from these overall statistics. First, statistics on juvenile prostitution have only been compiled since January 1987 and do not distinguish between girls and boys. Second, there is no distinction between clients of heterosexual and homosexual prostitutes. Third, prostitutes are identified by the specific offence of "engaging in" and by biological sex, male or female.

The statistics show women "engaging in" and men "engaging in", the latter category includes transvestites/transsexuals. This does not allow us to determine how many prostitutes offer services exclusively to homosexuals. Consequently, statistics for men "engaging in" must be viewed with caution. A large number of them (nearly 45%, according to our sample) offer services which appear to be heterosexual. Moreover, all our transvestite/transsexual respondents consider themselves to be heterosexual. These men are convinced that they are women emotionally and consider their biological sex a mistake. Accordingly, they prostitute themselves as "women", and their clients obtain their services as such. Identifying this type of prostitution, in which the service offered and purchased is "heterosexual", could be misleading.

Another problem is that only certain data from the request to initiate procedures form are input into the computer. The accused may, therefore, be classified by general offence under section 195.1, but not by specific offence. We would have liked to estimate the number of known male and female prostitutes and clients from the arrests. We were able to do this for female prostitutes, taking recidivism into account, because they have only one offence under section 195.1 ("engaging in"). It was not possible for men, however, because the computer shows clients and prostitutes without distinction, classifying the latter by sex and combining the categories "engaging in" and "obtaining".

At the court, the clerk has been keeping monthly statistics since 1986 on new criminal records. They are compiled in an annual report (Tremblay *et al.*, 1987). These differ from police statistics in that they include cases under s.195 (procuring) under the heading of section 195.1. Only statistics on arrests leading to charges are compiled. This means, for example, that not all arrests made to the end of December 1986 are included in the 1986 roll.

Consequently, we used figures from the co-ordination/morality section for general statistics, using court figures only to determine our sample size and information relating to the judicial process.

3.24 Statistical Analysis of Police and Court Records

We had to conduct a statistical analysis of police and court files to answer certain questions regarding prostitutes' and clients' sociodemographic characteristics, histories and step-by-step progress through the court system from bail to sentencing.

In Montreal, no single file contains all this information. The C/M section maintains up-to-date files on people. Each file contains every request to lay morality charges since 1979, but these files could not be used directly because they were arranged in alphabetical order. Moreover, several were irrelevant. They did not contain cases under section 195.1. Nor do police files mention court follow-up, except for the verdict. The police department to save space by maintaining the most compact files possible. At present they fill 18 file drawers. That is why only request forms for laying charges are kept.

Furthermore, court files are incomplete. Much of the required information, such as ethnic origin, occupation, marital status and personal history, is not given. Court files do, however, have the advantage of being filed by case number, which can be matched to an offence under section 195.1. The clerk kindly offered us a list of all 195.1 cases from January 1986 to June 30, 1987, a total of 2,724 cases (1,555 in 1986 and 1,169 to June 30, 1987). After this unexpected cooperation, we decided to conduct our statistical analysis in two stages. We would analyze the court files, obtain the names of the accused from them and use this to analyze the police files. Appendices 11 and 12 list the information researched in each set of files.

Since not enough time was available to analyze all 2,724 files, which were, moreover, scattered around 14 different locations and totalling some 25,000 files, depending on their status (inactive, put over, failure to appear, delayed and so forth), we had to confine ourselves to a ten per cent sample.

We decided to take every tenth case from the list provided by the clerk. We choose the first number at random from among the first ten. The sixth case was picked and we continued on: taking the sixteenth, twenty-sixth and so forth until we had our 272 case numbers.

After gathering our information at the court, we completed our search in the personal files kept by the C/M section. During the process we had to discard two cases that related to section 195 procuring) rather than section 195.1.

In all, our statistical analysis was based on 270 cases registered at court between January 1, 1986 and June 30, 1987. They broke down as 140 cases involving female prostitutes, 19 involving male prostitutes, 16 involving transvestites/transsexuals and 95 involving clients.

The breakdown of accused persons within the sample coincides almost exactly with the breakdown of the 2,739 arrests, as Table 1 shows.

TABLE 1

COMPARISON OF OUR SAMPLE OF ACCUSED WITH THE POPULATION OF ARRESTED PERSONS, JANUARY 1, 1986 TO JUNE 30, 1987

Source	Sample		Total Arrests		Total
Subject	**n**	**%**	**n**	**%**	
Female Prostitutes	140	51.8	1416	51.7	+0.1
Male Prostitutes	35	13.0	480	17.5	-4.5
Clients	95	35.2	843	30.8	+4.4
Total	270	100.0	2739	100.0	

To conclude, let us reiterate some of the earlier-stated limitations: Police files from the C/M section do not contain any indication as to criminal records, other than those relating to prostitution. Court files do not always show if a defence lawyer was present at any stage of the judicial process.

3.25 Analysis of Significant Judgments

To find out how difficult it is for the courts to apply the law, we asked Crown attorneys, judges and defence lawyers to give us examples of what they considered to be significant judgements.

We were given six, five dealing with the technical side of the law and one with its constitutionality. Since a complementary study will analyze the judgments handed down, we will merely describe them briefly.

3.26 Systematic Count of the Frequency of Prostitution

To get a more accurate idea of the number of prostitutes at various hours, on various days and during at least two seasons, we made a systematic count of prostitutes.

Our goal was to gather data on those engaging in street prostitution (sex, age and number) at different times of the day over several days and at different strategic points in the city. We decided to count prostitutes during two intensive weeks of observation: May 28 to June 3 and July 30 to August 5, 1987. On May 28 and 29 we devoted two full days to observation. We observed from 10 am to 3:30 am to identify the "rush" hours that would dictate observation periods for subsequent days. We set the rush period between 9 pm and 1:30 am. We added five more evenings of observation, following very intense police enforcement during the Montreal International Jazz Festival.

In the two weeks mentioned above, most of the count was done from an automobile because the districts were too far apart. The researcher observed and wrote symbols on her map while another person drove very slowly, stopping when necessary.

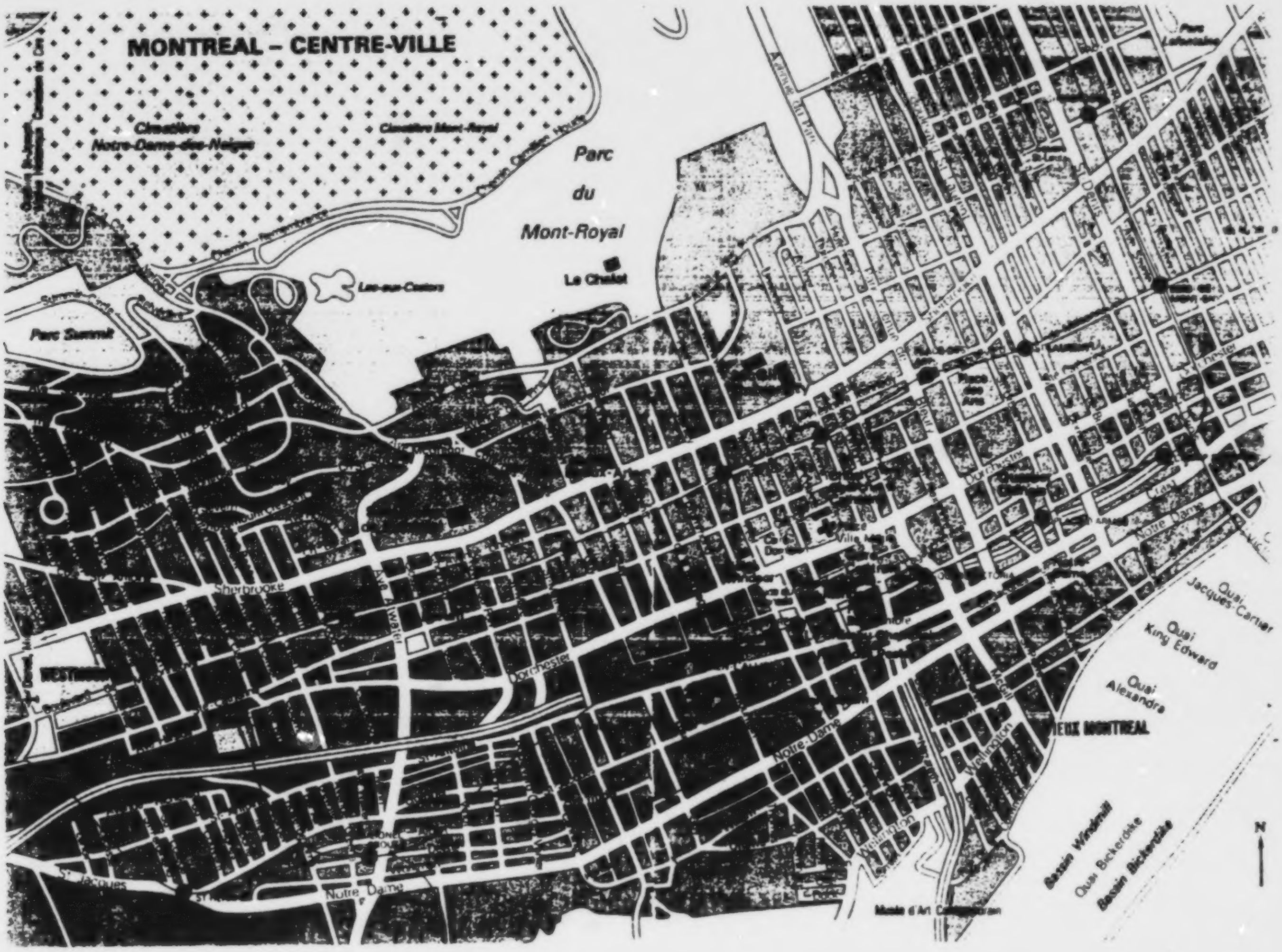
In all, we logged 57 observation periods, including 47 in the scheduled two weeks and 10 to determine the effect of intense police enforcement.

We covered the following districts: St. Catherine between Stanley and Drummond, the "Main" with its cross streets to St. Catherine from Clark to St-Denis, St. Catherine near Dézéry, Pine Avenue between Henri-Julien and St-Denis, and Lafontaine Park. Table 3 shows a map of these districts (the corner of Dézéry and St. Catherine is not shown, being too far east).

Because activity in the Dézéry and Pine Avenue districts was only sporadic, we had planned to exclude them from our count. We changed our mind about Pine Avenue, however, after the police and persons in the milieu passed on the information that prostitutes seemed to have moved back there during the summer.

FIGURE 3

MAP OF PROSTITUTION DISTRICTS IN MONTREAL, MAY 28 TO AUGUST 5, L987


MONTREAL – CENTRE-VILLE
Cimetière Notre-Dame-des-Neiges
Cimetière Mont-Royal
Parc du Mont-Royal
Le Chalet
Lac-aux-Castors
Parc Summit
Sherbrooke
Dorchester
Notre-Dame
St-Jacques
Ville-Marie
Quai Jacques-Cartier
Quai King Edward
Quai Alexandra
VIEUX MONTREAL
Wellington
Bassin Windmill
Quai Bickerdike
Bassin Bickerdike
N

1- "Main": heterosexual prostitution

2- Lafontaine Park: homosexual prostitution

3- St. Catherine and Drummond: heterosexual prostitution

4- Pine Avenue: heterosexual prostitution

Accordingly, we agreed to make a count there during the second week. As for the St. Catherine and Drummond district, it was only after the first two days of observation that we decided to drop it from future counts, because it was not significant enough.

We had to keep certain problems in mind when making our count. First, it proved impossible to tell whether a prostitute was under 18. Hence we omitted age and recorded only sex. Since it is often difficult, however (especially from a car), to distinguish transvestites and transsexuals from other female prostitutes, we did not attempt to make that distinction.

We also decided to be conservative in our count. Every woman in high-heeled shoes walking around one of the areas covered was not automatically identified as a prostitute. By the same token, women who looked less "sexy" were not necessarily ruled out. We had to watch for other signs, such as walking slowly to and fro in a small area, trying to communicate with potential clients, and so forth. We should add that during the summer week (July 30 to August 5), it was easier to count because the researcher had been in the field for four months.

We should also point out that part of the count taken in the spring week (May 28 to June 3) took place during an enforcement blitz prompted by the opening of the Métropolis, an upscale discotheque. Also, a rock show prompted much police activity, related to the arrest of drug pushers. Lastly, to allow a fireworks display which was related to an international competition to take place, several arteries were closed to traffic. This made it harder for clients in cars to contact prostitutes.

In contrast, the summer week was much quieter. No special event or intensive enforcement blitz disrupted the environment.

Let us conclude by cautioning that the results of the count should only be interpreted in one way or another, as regards the law's impact, with care because no comparable figures exist for the preceding period.

3.27 Analysis of Classified Advertisements

We wanted to know to what degree enforcement of the law had forced prostitutes to offer their services through massage parlours, escort agencies, sexually explicit video viewing parlours or to work freelance through classified advertisements. To measure this, we compared advertisements in *Le Journal de Montréal* for three Wednesdays: June 19, 1985 (six months before the law took effect), June 18, 1986 (six months after it became law) and June 17, 1987 (18 months after it became law).

We selected *Le Journal* from among Montreal's French-language newspapers because the vast majority of people in the prostitution business advertise there, rather than in *Le Devoir* or *La Presse*.

Our aim was to measure the number of prostitution advertisements and also to compare them by category. The categories used were massage parlours, escort agencies, viewing parlours and individual offers.

3.28 Analysis of Print Media Coverage

We wanted to find out how the law was viewed, commented upon and dealt with by local newspapers, namely *La Presse, Le Devoir, Le Journal de Montréal* and *The Gazette*. Accordingly, we clipped every article on prostitution relating to the law. We did not include articles describing prostitution or police activities unless they were explicitly or implicitly related to the law. A total of 69 articles were singled out in this way. In analyzing their content, we had to eliminate 12 articles that were verbatim accounts that appeared in other dailies, leaving 57 to be studied.

The period covered was from October 1, 1985, when the newspapers began writing about the bill, to April 30, 1987. for *The Gazette, Le Devoir* and *La Presse*

(October to December 1985), we used the Canadian News Index. *Le Journal de Montréal* has its own indexing and press clipping service, and since 1986, *La Presse* has offered Infodex service.

Our analytical grid, adapted from one supplied by the Department of Justice (Appendix 13), included these headings:

- type of article (editorial, wire, etc.)
- source of article (police, lawyers, etc)
- length of article (long or short)
- form of prostitution (street, bar, etc)
- geographic area ("Main" or other)
- age group of prostitutes (juvenile or adult)
- trigger event (passing of law, police activity, etc)
- image of the law presented (positive, negative, etc)
- topics raised.

3.29 Comparison with 1984 Research

To gain a better idea of the changes following enforcement of the law, we referred to 1984 data (Gemme *et al.*, 1984) when comparison was possible. This is also holds for the number of prostitutes, certain prostitution practices (location, safety, etc), certain enforcement practices (laws, regulations, evidence, judicial process, sentences, etc) and certain characteristics of those in the milieu.

After this description of our methodology, we will present our findings in the following chapters.

III BILL C-49 AND POLICE AND JUDICIAL ENFORCEMENT SYSTEMS IN MONTREAL

1. Street Prostitution Enforcement Practices before Bill C-49's Adoption

Following the *Hutt* decision in 1978 (which ruled that solicitation had to be pressing or persistent and that a private car on a public road was not a public place), street prostitution in Montreal increased considerably. The situation became annoying to citizens and threatened the city's image. The problem bred a certain disorder and made it even harder to enforce the law in other respects. The police were powerless to control the situation because prostitutes' propositions were not pressing enough to be called harassment. From then on, it was impossible to use subsection 195.1 of the *Criminal Code* to control the problem. The police demanded tools that would enable them to restore order.

Because of this, the Montreal municipal authorities passed by-law 5464 (Appendix 14) in May 1980. Aimed at preventing the criminal activity associated with prostitution and restoring order in public places, the by-law made it illegal to remain in a public place for purposes of prostitution or to approach a person for such purposes.

Several Canadian cities imitated the Montreal by-law, although wording differed. All these cities' municipal by-laws were challenged in the courts at several levels. The first case to come before the Supreme Court challenged the Calgary by-law. A judgment handed down in January 1983 ruled it unconstitutional. The Supreme Court had still not ruled on by-law 5464. But since the Calgary by-law was modelled on Montreal's, even though it was not an exact copy, Montreal authorities promptly gave up using it in January 1983.

The Calgary by-law, like Montreal's, was challenged because it applied to behaviour already regulated by the *Criminal Code* (namely soliciting, s.195.1). In October 1983, Montreal thus decided to pass by-law 6249 which amended article 3a of its by-law 333 (Appendix 15). This bylaw states that no one shall, "unless authorized ..., use the public domain for the purpose of offering, for a fee, one's services or the services of others to any persons without a permit for that purpose". Neither solicitation for purposes of prostitution nor prostitutes are directly targeted. Selling pencils without a licence would constitute the same offence. Police received very strict orders to arrest anyone violating the by-law, whatever services or objects were offered. The aim was to make it impossible to challenge by-law 333-3(a) on the grounds that it was aimed solely at soliciting for purposes of prostitution.

Nevertheless, municipal by-law 333-3(a) was challenged in Superior Court in *Mario Clermont v R.* The complainant claimed that the by-law was *ultra vires* because it was aimed at soliciting for purposes of prostitution. He also suggested that it was illogical to prohibit unlicensed sale of services for which no license existed or could be issued. Mario Clermont was nonsuited by Landry J. in April 1984, and municipal by-law 333-3(a) is still in force.

In contrast, municipal by-law 333-2(b) (Appendix 16), which was used from January to October 1983, can no longer be used to control prostitution. A ruling was handed down that a prostitute is not loitering; she has a purpose when walking, namely to seek clients to engage in prostitution (and prostitution is not illegal).

Thus municipal by-law 333-3(a) was the only valid tool that could be used to control street prostitution. Table 2 shows the pattern of arrests for soliciting from 1977 (before *Hutt*) to 1985 (before C-49). We see that the legal system was paralysed from 1978 to 1982 inclusive. Arrests resumed in 1983, however, solely because of the municipal by-laws. In 1984-85, arrests for street prostitution reached the highest levels since 1972, the first year for which we have figures (Gemme *et al.*, pp. 65-66).

On January 14, 1986, police began making arrests under the new section 195.1(1).

TABLE 2

SOLICITING OFFENCE IN MUC TERRITORY FROM 1977 TO 1985[1]

Year	No. of Offence		Section of *Criminal Code* or Municipal By-law
1977	338[2]		195.1 and 193.2a,b,c)
1978	61		"
1979	13		"
1980	24		"
1981	6		"
1982	417	including 401	MB[3] 5464
	16		MB 333.2(b)
1983	339	including 62	MB 5464 (01-01-83 to 31-01-83)
	204		MB 333-2(b) (01-02-83 to 31-10-83)
	73		MB 333-3(a) (01-11-83 to 31-12-83)
1984	853[4]		MB 333-3(a)
1985	1,189[4]		MB 333-3(a)

[1] Sources: Brief to the Fraser Commission by the MUC Police Brotherhood on February 28, 1984 (1977 to 1981); Gemme *et al.*, 1984, pp. 68 and 70 (1982 and 1983); Co-ordination/morality statistics for 1984 and 1985.

[2] Soliciting cases from 1974 to 1981 were assigned to the category "order prostitution". Since 1978, following the Hutt decision, we may assume there have been no 195.1 cases in that category.

[3] MB = municipal by-law.

[4] Includes only prostitutes, because clients could not be arrested.

2. Analysis of Practices and Attitudes within the Police and Court Enforcement Systems in 1987

2.1 Police

2.11 Brief Description of the Formal Organization of Police Enforcement against Prostitution in Montreal

As noted earlier, we interviewed the Montreal Urban Community Police Department's Director of Legal services, 31 police officers from the MUCPD including 17 supervisors, and two junior officers from the Quebec Police Force.

2.111 Quebec Police Force

The only police forces with morality squads in the Quebec Police Force's Montreal District are Montreal and Laval's police forces.

In theory, the Quebec Police Force's vice squad (Escouade des Moeurs, EM) could enforce the law in cities that have such a squad. But, in fact, it leaves those cities to enforce vice laws. The QPF vice squad operates mostly in municipalities that have no morality squad, which call on their services because they lack expertise in such cases, as well as the technology. When it operates in Laval, it is because cases are too complex for local police.

The QPF vice squad, which comes under criminal investigations, is divided into two sections, one for drugs and the other for morality cases. The latter include gambling, alcohol and sex. Four investigators, one of whom is a woman, and one sergeant are assigned to sexual morality, over a territory extending to the Ontario border through Dorion and Vaudreuil, across the south shore of Montreal as far as Verchères and over the entire territory of the Montreal Urban Community.

Annually, the QPF vice squad dismantles some 15 to 20 prostitution rings per year. Seventy per cent of the businesses out of which they operate lose their licenses. These rings mainly operate out of massage parlours and escort agencies as well as nude dancing clubs where prostitution or acts of gross indecency take place. Action may be taken at the request of a municipal force, on the vice squad's initiative, or sometimes following complaints by parents' or citizens' groups.

2.112 Montreal Urban Community Police Department

The Montreal Urban Community Police Department (MUCPD) has special squads where 51 police officers of various ranks are assigned to morality surveillance.

In the Co-ordination/Moralite section, the director, who is also advisor and coordinator, passes on information to the various groups concerned, supervises organization of joint operations and ensures that there is no duplication between investigations. An analyst helps him in this and also maintains up-to-date statistics. Four liaison officers also work in this unit. Three are assigned to morality cases and one to alcohol cases (*Offence Relating to Alcoholic Beverages Act*).

The morality section of the organized crime division (Morality DCO) operates throughout the Montreal Urban Community. A lieutenant, two sergeants and 14 investigators, including two women, deal exclusively with morality, which, in addition to prostitution, includes gambling, betting and alcohol. These people work under the Director of the Organized Crime Division.

The MUC territory is divided into four regions: centre, north, east and west. Each has a regional enforcement section (SIR) with a morality, alcohol, gambling and betting unit. The investigators have other duties besides morality cases, which vary in significance from region to region. SIR Centre, located in the prostitution area with the highest crime rate, has the largest staff regularly assigned to prostitution: one lieutenant, one sergeant and seven investigators. The North, East and West sections each have one lieutenant, one sergeant and four investigators, but they are only occasionally assigned to prostitution.

Resources were divided up in this way for two reasons. First, to ensure double enforcement. With each region served by two squads (Morality DCO and the SIR), it would be harder to outwit or corrupt two units than one. Second, to ensure coverage tailored to environment in each region.

Stations 33 and 34 also deal with prostitution. Heterosexual prostitution is concentrated in Station 33's territory, mainly near St. Catherine and St. Lawrence and on Pine Avenue. Police who patrol sector 33-5 enforce prostitution law mainly by checking prostitutes who fail to comply with area restrictions in their conditions of parole.

At Station 34, which is responsible for monitoring Lafontaine Park where homosexual prostitution flourishes, two police officers patrol the park all year long. In summer, about ten officers are assigned to the park from May to September to enforce not only the anti-prostitution law, but to prevent thefts from homosexual clients, gross indecency and other theft.

In addition to the above-mentioned personnel, each of the 24 MUCPD's stations has two morality investigators, known as director's investigators, who work mainly on checking licenses.

They enforce compliance with alcoholic beverages regulations in clubs and maintain a file on all male and female nude dancers (Operation Minor Dancers). Their duties consist of first locating every establishment likely to hire nude dancers, and then systematically visiting them weekly. They must also check every nude dancer's identity, make sure that he or she is not a minor, and report on each establishment.

For clean-up operations (also known as blitzes or crackdowns), several units work together.

2.12 Brief Description of Arrest Procedures

Arrests may be triggered in two ways: sometimes, but very rarely, merchants, parents' or citizens' committees make complaints. Usually, however, police act on their own initiative. When a complaint is received in a district, it is forwarded to Morality DCO or a SIR. Once the commanding officer has studied it, he forwards it to the supervisor, who assigns an investigator to check up. If the complaint is founded, he takes action.

The action may take the form of undercover police work (about 90% of cases) or surveillance followed by arrest of a suspect caught in the act (about 10% of cases). In the case of a police contact, a plainclothes policeman, on foot or in an unmarked car, poses as a potential client and makes the arrest after obtaining evidence. To arrest clients, a plainclothes policewoman poses as a prostitute.

The second method is to observe the suspected prostitute making contact with clients, follow her and a client, catch them in the act and try to get a statement from the client.

After arrest, offenders are taken to the station or Morality DCO to check their identity, address and record. Police also try to get a statement from clients.

If no record, violation of district restrictions (*see explanatory note which follows) or outstanding warrant is found and identification is confirmed, the client and/or prostitute are released after signing a promise to appear (usually a month later). Occasionally, police officers prefer to lay an information.

If, however, there is a record, false ID, violation of release conditions or an outstanding warrant, the accused is detained until he or she makes a court appearance, usually the next day unless it is a Sunday.

In all cases, the police officer completes a request to initiate proceedings (Appendix 17).

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*EXPLANATORY NOTE: Throughout this report, there are references to district restrictions. These are intended to keep habitual offenders out of certain neighbourhoods following release pending trial. References to district restrictions are described throughout as a condition of bail, rather than interim release. This is to avoid confusion. Judges and police can both grant interim release to an accused, but only a judge can impose conditions. This is done during what is still commonly called a bail hearing (show-cause). Thus, even if an accused is released on his or her own recognizance with district restrictions, the restrictions will be referred to as a condition of bail. The use of interim release implies that it is uncertain if an interim release was authorized by police or a judge.)

2.13 Impact of the Law on Street Prostitution Policies

2.131 Order of Priorities Given to Street Prostitution and Policies

2.1311 Order of Priorities

Street prostitution is in itself a serious problem for our respondents. It breeds crime, causes traffic problems, is blatantly vulgar and outrages many persons' sense of morality. When placed in the overall context of criminality in an urban municipality, however, it shrinks in significance. To illustrate this, within the territory of the MUC, 51 officers are assigned to oversee vice, including street prostitution, out of a total strength of 4,426. On December 7, 1985, Director Bourget told *The Gazette* that he did not consider enforcing the new law a priority and would not take on more staff.

In the organized crime division, of which Morality DCO is a component, priority is given to the anti-drug section, which has 39 investigators and 14 officers, compared to 14 investigators and 3 officers in Morality DCO. In fact, in the spring of 1987, six positions were transferred from morality to the drugs section.

On the other hand, since Bill C-49, fighting prostitution has become a priority if not a major project for anti-vice units, available staff and budget.

Morality DCO and the SIRs do not attach the same importance to street prostitution. In Morality DCO, 60% of working time in general is allocated to prostitution, of which 80% is directed against street prostitution and 20% against brothels and pimping. Priority, however, is given to juvenile prostitution through the "minor dancers" operation described in the chapter on juvenile prostitution. Gambling, betting and alcohol share the remaining 40% of work time.

At SIR Centre, street prostitution has become priority number one. This contrasts with the period before the law, when work was divided evenly among prostitution, alcohol and gambling. In 1987, 75% of time was allocated to prostitution in general and the remaining 25% was broken down among enforcement of alcohol laws, nude dancing clubs and gambling. Of the 75% of time allocated to prostitution, three quarters was spent on street prostitution and 25% on brothels and pimping.

For these two anti-vice sections, 40% of the time spent on prostitution cases before January 1986 was devoted to street prostitution and 60% to brothels and procuring. Since January 1987, however, priority has been given to cleaning up the "Main", which is in the territory of SIR Centre and Station 33.

As for SIRs North, East and West, they are mainly concerned with brothels. At SIR North, for example, time spent in anti-brothel operations has doubled since 1986 because of the new commanding officer's priorities.

As more attention is paid to drugs and tight control over downtown prostitution, some street prostitutes have moved outside the regular districts. Information had to be passed on to SIR North and SIR East about what was, for them, a new problem. Street prostitution, however, takes up but a small part of their time.

As for Station 33, even though priority is given to having the maximum number of vehicles on hand to answer calls (that is why they do not tail anyone in connection with prostitution), officers may also make arrests through undercover work. They made more such arrests in 1986 when they were overstaffed.

More arrests on street prostitution charges are, however, made by officers from that station following violations of district restrictions. Until October 1986, police officers only arrested prostitutes through undercover work because arrests based on surveillance required more time and resources than were available at the stations. Since October 1986, police have started surveillance against those who violate release conditions by entering districts from which they are banned.

At Station 34, 35% of the time spent on the Park Project is earmarked against prostitution. No pimping or bawdy-house cases are dealt with. If police are aware of

100such problems, they alert Morality DCO. This situation is the same as it was before January 1986.

Before the law, the police dealt with fewer street prostitution cases because soliciting was almost impossible to prove under the old section 195.1. Municipal by-law 333-3(a), which covers offering services without a license in public, was used, but without too much conviction. Fines were lower, and as soon as prostitutes came out of Municipal Court, they returned to the street. Everyone agrees that the new law gives the police new incentive because it is effective.

How does the fight against street prostitution compare to that against other forms of prostitution or related activities? There is now more enforcement on the street, for two reasons. The first is that priorities have been reordered, leaving less time to fight other forms of prostitution. The second is that the fight against other types of prostitution requires evidence that takes longer to collect (by more expensive and complex means: electronic listening, long observation and so forth). Furthermore, according to some of our respondents, such cases are not worth the effort. Fewer people get charged in a bawdy-house case (which requires one or two weeks' work) than in a street blitz lasting four hours. Moreover, fines tend to be lower compared to the cost of an operation.

As regards the fight against pimping, prostitutes seldom agree to testify against a pimp, and may change their minds during a hearing. This makes cases harder and slower to put together.

2.1312 Policies

Since January 1986, new policies have emerged, demonstrating the importance attached to controlling street prostitution. The co-ordination/morality section has emphasized monthly statistical monitoring, with reports and tactical operations as soon as some irregularities are noted (decrease in arrests, disproportionate prostitute/client arrest ratio and so forth). A policy of goal quotas was applied to keep police officers and supervisors motivated. Also, a co-ordination policy whereby units work in teams to complement one another, avoids investigative duplication. For the "Main", an ongoing enforcement policy was adopted. Aside from regular enforcement blitzes, Morality DCO police officers must arrest at least one prostitute and one client a week.

2.132 Objectives

We identified three main objectives relating to the law: reducing indecency on the "Main" and in Lafontaine Park, lowering the downtown crime rate and supporting the law when Parliament evaluates it.

2.1321 To reduce Indecency in Public Places

For all police supervisors, the law makes it possible to achieve an objective that existed before the legislation but could not be effectively achieved, namely to reduce or, if possible, eliminate indecency and vulgarity in the "Main" and Lafontaine Park districts. There was firm determination to allow citizens to, once again, have peaceful enjoyment of these districts.

Before the law, this was an elusive goal. The only enforcement mechanism that could be used quickly and on a large scale was municipal by-law 333-3(a) Fines were smaller, jail terms were rare and judges could not impose probation or conditions of release, because it was a municipal by-law. Thus, as soon as prostitutes were released, they went back to soliciting, often becoming abusive to those who refused their advances or to police. A video, produced by police in May 1985 at the corner of St-Dominique and St. Catherine, is very revealing in this regard. It shows prostitutes making sexually explicit gestures in public. Furthermore, this municipal by-law did not allow clients to be arrested. A number of these rudely solicited women pedestrians or residents (in St-Louis Square, for example).

Because many sociocultural activities occur downtown (Complex Desjardins, Place des Arts, festivals on St-Denis and so forth), supervisors wanted to change the area's image of a sexual supermarket. Merchants had complained that prostitutes drove away better clientele and attracted less desirable customers. In Lafontaine Park, citizens also complained about seeing indecent behaviour. When a Bill C-49, making soliciting a `Criminal Code` offence, became law, the police could now plan to "cleaning up the downtown" and Lafontaine Park.

2.1322 To Reduce Criminal Activity

A second objective that the new section 195.1 (in tandem with the fight against drug pushers) make possible is lowering the downtown crime rate. For supervisors at Station 33 and SIR Centre, street prostitution is a factor that breeds crime. Reducing it substantially also reduces related crimes such as thefts from clients or prostitutes, attempted murder of clients, prostitutes or pimps, serious sexual assault or attempted assault and buying and selling of drugs. Fewer prostitutes means fewer complaints from them, fewer pimps, fewer clients and fewer complaints by clients; fewer parked cars, and, consequently, fewer thefts from cars, fewer cars being driven, hence lighter traffic on St. Catherine, fewer drunks and hence fewer fights, less drug use and hence fewer pushers.

To achieve these two goals, Morality DCO and SIR Centre set objectives for the arrest of prostitutes and clients. In summer 1985, for example (when municipal by-law 333-3(a) was still in use), Morality DCO set a goal 400 prostitutes for 1986. When Bill C-49 was announced, however, the supervisor changed his objectives to reflect the new prospect of arresting clients. His new targets were 150 prostitutes and 75 clients. In 1987, these rose to 200 prostitutes and 150 clients, and for 1988 the figures were 300 prostitutes and 250 clients. At SIR Centre, the 1987 objectives were 525 prostitutes and 265 clients, while in 1988, police hoped to arrest 700 prostitutes and 800 clients.

In addition, the co-ordination/morality section provides monthly follow-up of reports through its analysis unit. The unit is ready to point out any flagging in attaining objectives.

2.1323 To Support the Law

The third objective is to "save the law". Officers in the co-ordination/morality section wanted to make sure that this very effective law be kept on the books when the evaluation planned by Parliament took place. To do this, C/M made sure that the law was enforced in an intelligent manner and, on the other hand, that a positive picture was shown to evaluators.

Intelligent enforcement means behaving so that defence lawyers cannot impede enforcement because of technical errors. If police cannot prevent a challenge based on constitutionality, they can at least ensure that all the evidence is properly and legally gathered. That is why police were trained to do this by the Director of the Legal Department and Municipal Court Crown attorneys as early as January 8, 1986.

It was also vital to ensure that enforcement did not discriminate by focusing on only one type of offender. Accordingly, C/M insisted on achieving a prostitute/client ratio as close as possible to parity in arrests.

Lastly, intelligent application of the law means enforcing it only in appropriate circumstances and places. Accordingly, the law has been used only in the street (except for about ten cases in hotels). By the same token, homosexuals engaging in their activities in public washrooms are arrested under section 169 (indecent act) instead of section 195.1, even if the evidence is harder to establish because an agreement between an offender and an undercover police officer is not enough.

To present a positive picture to the evaluators, the C/M section made its statistics more sophisticated so that offences under section 195.1 are easier to identify by category of offender. In addition, the section demonstrated that the law, as written, is effective because it made a significant increase in the number of arrests compared to prior years (1,621 in 1986 compared to 1,189 in 1985) possible. It allowed a charge rate of about 100% and a conviction rate of nearly 99%. Moreover, the widespread use of area parole restrictions for repeat offenders provides visual proof of the decrease in public nuisance caused by street prostitution.

2.133 Political and Administrative Pressure

The Director of Legal Services, MUCPD and police supervisors did not feel any political pressure. The MUCPD is an autonomous body, independent of elected municipal officials. Its Director is appointed by Quebec City, not by the MUC's municipal councils. Thus it sets its own priorities. Occasionally, an alderman may forward a complaint from citizens or merchants in his ward. The police then investigate and take action, if necessary, as they do with all complaints. This was what happened when some prostitutes moved into the Dézéry and St. Catherine area.

The police command does, however, issue directives for such public events as the opening of the megadiscotheque Metropolis and the International Jazz Festival. This also happened when the arrest ratio of prostitutes to clients became too unbalanced.

As for possible pressure from developers interested in "gentrifying" the downtown core, our respondents heard nothing on that score. They believe that such investors would develop first and exert pressure later, if development alone did not drive out prostitutes by radically altering their environment (for example, by demolishing bars and restaurants).

Real pressure does come from the Coordination/Morality Section to keep enforcement from slackening and to make sure that annual objectives are met. Thus, when the arrest ratio of prostitutes to clients falls too low, strategic action is taken. In addition, one of the supervising officers was replaced by someone whose firm hand would ensure the downtown core was cleaned up.

2.14 Impact of the Law on Formal Organization and Staff

2.141 Formal Organization

Enforcement of the law did not lead to any organizational change and no new units have been established. Police officers have, however, been assigned to new duties since the law took effect. Because judges can now impose parole conditions which restrict an offenders access to a district, police at Station 33 who, until October 1986 made undercover arrests, have instead been instructed to monitor prostitutes who violate arrest or parole conditions. Accordingly, Station 33 makes sure, a maximum number of patrol cars are ready to respond to calls from citizens and merchants, while helping to clean up the downtown core.

2.142 Number and Sex of Staff

Enforcement has not led to any increase in staff assigned to morality cases. On the contrary, the strength of Morality DCO was reduced by six officers in spring 1987 in order to reinforce the drug squad, which was given priority by the organized crime division.

As for officers' sex, two policewomen were transferred to Morality DCO in summer 1986 and spring 1987. One of their duties is to act as undercover agents. In addition, when a major crackdown on clients is planned (as in December 1986, when 201 clients were arrested in two weeks, and in November 1987, when 111 clients were arrested in ten days), policewomen are called in from stations 33 and 34.

2.15 Impact of the Law on Police Methods

2.151 Paragraphs of s.195.1 Used

In Montreal, 100% of charges are based on paragraph (c). The Crown attorney responsible for morality cases considers paragraphs (a) and (b) as so much eyewash, because they are ambiguous and very difficult to prove.

2.152 Relations with Municipal Court Crown Attorneys

Police work very closely with Crown attorneys. In fact, until September 1987, the offices of the co-ordination/morality section and those of the liaison officers were in the same building. This made informal discussion easy.

As soon as Bill C-49 was passed, meetings were held with Crown attorneys to inform police about the evidence required. Then in spring 1986, further information meetings allowed police to fine tune their investigation methods, especially those relating to the arrest of clients.

2.153 Evidence

When the law was first implemented, there were many problems of interpretation: How to define communication, how to obtain it legally, who should initiate it and what is the value of evidence from an undercover police officer or from surveillance and tailing?

Meetings with Crown attorneys established that undercover police work is legal, less expensive and leads to a greater number of arrests per operation. Police must, however, take care:

- to obtain evidence of communication relating to prices and sexual services;
- to ensure that the procedure cannot be interpreted by defence lawyers and judges as an "entrapment" procedure; the undercover officer must be as passive as possible and must not initiate communication.

It was also established that charges under section 195.1, following surveillance and tailing, are possible, provided the following is gathered:

- evidence that the person arrested with the client is in fact a prostitute, whence the necessity of observing three or four solicitations before beginning to tail a suspect;

- evidence that a sexual encounter took place, whence the necessity of surprising the client and prostitute in the act;

- evidence that the communication dealt with sexual services for payment, whence the importance of obtaining a statement from the client to that effect (for as a general rule, the prostitute will deny the interpretation of the facts). If such a statement is not obtained, the police will release the client without charges. The prostitute will still be charged, because police may be able to refer to her record and their observations that she repeatedly talked with clients and got into some clients' cars, including the one where she was caught in the act.

Initially, Crown attorneys did not require such a statement or arrest of someone caught in the act, but they do now. We should add that a scant 10% of cases are built in this way. To avoid complications, Crown attorneys prefer undercover police work, as confirmed in the May 28, 1987 report by the co-ordination/morality section analyst:

> All investigations are so organized as to obtain direct evidence; in other words, the undercover policeman or policewoman has direct contact with the prostitute or client. Soliciting is thus observed directly (Brisebois P., 1987, p 2).

2.154 Offenders Targeted

The law applies to heterosexual women prostitutes and homosexual male prostitutes. As a general rule, however the latter are of less concern to Morality DCO and SIR Centre. One reason is that the Station 33's district has priority and another is that police are somewhat reluctant to pose as homosexual clients. Respondents informed us that during general blitzes, in other words those covering the "Main", Pine Avenue and Lafontaine Park, no one volunteered to go undercover in the park. The supervisor had to assign a team himself. Thus, the majority of arrests of homosexual prostitutes are made by Station 34 police.

In contrast to the statutes and municipal by-laws that preceded it, the law also allows clients to be arrested. As mentioned earlier, the director of the co-ordination/ morality section attaches great importance to the prostitute/client arrest ratio, in order to back the law. He feels the integrity of police enforcement would be questioned if this ratio became disproportionate.

Initially there was a break-in and adjustment period. Information meetings were held at that time with the Crown attorney responsible for morality cases, to explain the evidence required. Later, toward the middle of 1986, police began to arrest clients. They did not know how to go about it, and did not yet use policewomen. Their only technique for arresting clients was surveillance followed by tailing. Later they began to use policewomen, and late in the year they brought the arrest ratio down from 5.2:1 in November to 2.1:1 by December 31, 1986. By October 31, 1987, the ratio was 1.8 prostitutes to 1 client. Not all police attach the same importance to this ratio and how to obtain it. SIR Centre officers, for example, believed until mid-June 1987 that enforcement of the law should not be discriminatory and consequently that the prostitute and client had to be arrested at the same time. Accordingly, they made most of their arrests by observing and then tailing. When a new commanding officer arrived, they adopted the police undercover method used by other units. Non-discriminatory enforcement would be ensured by anti-client blitzes, such as the December 1986 and November 1987 operations.

In contrast, Station 33 police maintain that emphasis should be placed on prostitutes on the grounds that they are easier to eliminate than clients, because they are far fewer and easy to identify. There are also more males working under cover. They believe that if prostitutes can be eliminated, clients will disappear on their own.

The foregoing comments apply only to heterosexual clients, because homosexual clients are affected very little by enforcement. Unfortunately, police statistics do not allow us to confirm this statement, because offences by clients are classified under the heading "Prostitution obtaining (clients)". No distinction is made by type of clients. Interviews, however, confirm that the homosexual clientele is tailed only exceptionally.

Many reasons have been given for this. Some supervisors admitted to us that in concentrating too heavily on controlling the "Main", they had simply forgotten this facet of street prostitution. Other respondents told us that undercover officers were at ease when posing as heterosexual clients but would be less so when acting the part of homosexual prostitutes. Still others explained that homosexual prostitutes are usually very young and their unit did not have any police officer who looked the part. Lastly, police in Lafontaine Park police explained that they could not pose as male prostitutes because the type of approach between client and prostitute made this impossible. The prostitute approaches the client after signalling by turning his headlights on and off. He asks, "Do you want a date?" An undercover officer could not use this type of approach, for it would be interpreted as entrapment. Moreover, male prostitutes all know one another. When a new one arrives (a police officer, for example), they try to drive him out of the park or rob him. To infiltrate the park, a police officer would need a week to stroll around it and make friends with one of the prostitutes.

Furthermore, male prostitutes often have a clientele of regulars. An undercover agent might wait four or five hours before being approached by a client. It should be noted that homosexual clients are much more nervous and mistrustful than heterosexual clients.

Apparently after mid-August, according to an interview with the officer responsible for the Park Project for summer 1987, police have resorted to undercover work to arrest homosexual clients. Indeed, 98% of arrests of this clientele seem to have been made by undercover officers. About four policemen worked on this. The lieutenant claims it is not essential for a policeman to look very young. If he does, a deal will be made more quickly. But, generally, clients looking for this service are not hard to please. Undercover police-client deals are made because they are easier and more effective than surveillance. With the latter method, if no statement is made, the client must be released. This absorbs much time and energy, costs more and is less effective.

As for juvenile prostitutes, we shall see in the chapter on that subject that they are hardly covered by the law, and police prefer to use the *Youth Protection Act.*

2.155 Rate of Charges

In general, whether at stations 33 or 34, SIR Centre or Morality DCO, about 99% of those arrested are charged. This success rate may be attributed to the fact that since 1987, the vast majority of arrests have been made following contact with undercover police officers, and to the professionalism of police, who take care to have all needed evidence at hand. Thus, very few cases are rejected by Crown attorneys. Very occasionally, police will let a prostitute or client go for humanitarian reasons (a mother of several children on welfare) or because the client refuses to make a statement.

2.156 Places Where s.195.1 is Applied

Except for about ten arrests in the bars of certain Montreal hotels, s.195.1 has only been used by the MUCPD for street prostitution. Opinion is divided as to whether it is appropriate to use it indoors. Some supervisors maintain that once the street has been cleaned up, they would use s.195.1 in bars if complaints were received. The priority now, however, is to end the street nuisance, especially on the "Main." Others, though, believe that indoor use would not be appropriate.

As for the Quebec Police Force, it sought a legal opinion from Crown attorneys at the Court of Sessions of the Peace. They ruled unequivocally that section 195.1 can be applied only in the street, on the grounds that paragraph (c) must be interpreted in relation to paragraphs (a) and (b). Police, therefore, continue to use sections 193.1, 193.2 or 195 for indoor prostitution (massage parlours, escort agencies and so forth), and 157 or 169 for homosexual prostitution in public washrooms.

2.157 Investigations into other Forms of Prostitution

2.1571 Montreal Urban Community Police Department

Since December 1986, the emphasis on enforcing the law against street prostitution has greatly reduced the number of investigations by Morality DCO and SIR Centre into bawdy-houses and pimping. This is confirmed by MUCPD statistics. As Table 3 shows, the number of offences was 692 in 1986 and would be a scant 278 in 1987, if the second half of the year is like the first. It should be remembered that there are very few massage parlours within MUC territory.

TABLE 3

NUMBER OF OFFENCES UNDER SS. 193.1, 193.2 AND 195 FROM 1985 TO 1987

Offences Year	193.1	193.2	195	Total
1985	240	108	327	675
1986	256	170	266	692
1987 (June 30)	35	11	93	139
1987 (Projected)			278[1]	

[1] Projection assuming second half of year identical to first.

In contrast, SIR North carried out 11 operations against bawdy-houses (massage parlours, escort agencies and home service) in 1986 compared to six in 1985. Three of those operations, however, were aimed at the same people. They had simply moved were operating under a different name. As mentioned earlier, this increased activity may be explained by the arrival of a new commanding officer proposed new strategies.

2.1572 Quebec Police Force

Our respondents stated that it was in 1985, before Bill C-49 became law, that the most massage and viewing parlours were to be found outside MUC territory. The "last resort" operation, carried out in 1986, was, therefore not even an indirect outcome of C-49 enforcement. It happened because local police forces called in the QPF vice squad because of the proliferation of massage and viewing parlours that was noticed in 1984 and 1985.

2.158 Special Strategies

Following the adoption of Bill C-49, which offered a more effective enforcement tool than municipal by-law 333-3(a), police developed several strategies. The main ones were using undercover agents against prostitutes and clients, enforcement blitzes and systematic requests for restrictions on the movements of repeat offenders who were out on bail or paroled.

2.1581 Undercover Agents

(a) Frequency of Use and Effectiveness

This method of arresting prostitutes was used before Bill C-49 was passed. It was merely used more intensely and systematically afterwards, because police and Municipal Court Crown attorneys quickly became convinced of its effectiveness in gathering evidence, its productivity in terms of acting against more offences and its low cost. Police officers concluding a deal with a prostitute or client soon became the most common enforcement method. This was true to such a degree that, according to a May 28, 1987 status report: "All investigations are organized so as to get direct evidence. In other words, the undercover policeman or woman makes direct contact with the prostitute or client. Soliciting is thus observed directly" (Brisebois, 1987).

Undercover work has also been used to identify clients. One of the two women investigators at Morality DCO confirmed that she was hired in summer 1986 to achieve a more acceptable prostitute/client arrest ratio, among other things. Twenty per cent of her time is spent on prostitution, nearly all of it undercover. During the December 1986 blitz (in which 201 clients were arrested), she might arrest five to seven per night. If the client makes a statement to the arresting officers, he generally does not know that the woman he thought was a prostitute is a policewoman. If, on the other hand, he refuses to make a statement and/or falsifies the facts, the undercover agent identifies herself.

Since it is hard to challenge an undercover agent's testimony, in 95% of cases the client confesses.

There are only two policewomen who are formally designated to work undercover when required. They are stationed at Morality DCO. SIR Centre does not have any women working there. When a major crackdown is planned, supervisors "requisition" policewomen from surrounding stations. They may be seconded for one or two days, or even one or two weeks if the operation is aimed at "restoring the ratio".

Undercover agents are also used to arrest homosexual prostitutes. Station 34 uses undercover agents on nearly 100% of cases, and they do their best to avoid being identified. There are not very many of them and they do not want to have their cover "blown". Policewomen from this station have also been used to arrest clients since some heterosexual women prostitutes began working in the park.

(b) How the Work is Viewed by Officers

The majority of male undercover agents say they like this kind of work when they are assigned to pose as heterosexual clients. They enjoy play-acting. Some, however, say outright they do not like it. They consider this part of the work routine and not challenging.

Policewomen from stations are rarely delighted with the idea of taking part in a blitz. Several feel uncomfortable posing as prostitutes. They react badly to their disguise, to the language they hear and to contacts with clients. They often have trouble writing down verbatim what was said, because the clients use obscene language. The two women investigators at Morality DCO, however, are used to this type of work and one even takes a mischievous pleasure in arresting clients. We observed her in action and can confirm that even an alert client would be taken unawares.

Since there are only two women doing this work regularly, some prostitutes recognize them, shout abuse at them and warn others that police are in the area. The policewoman or policemen then advise them to be quiet or face the threat of arrest for obstructing the work of a peace officer.

(c) Cost

Undercover operations are definitely cheaper than surveillance and tailing. Moreover, this work is done during regular hours or in time that some officers owe to make up for leave. Since 95% of clients plead guilty, very little time is spent in Court, which would result in overtime.

An operation with an undercover policewoman, instead of a policeman, is more expensive because she is backed up by two officers and two cars.

No one can calculate how much it costs to use an undercover officer because this strategy is applied during normal working hours. If police and unmarked cars were not assigned to prostitution, they would be used for observing brothels or for investigations into pimping. Thus using undercover agents does little to increase costs, unless the officer is a woman. In that case the third police officer's salary must be reckoned in, together with the cost of using the second car.

2.1582 Continuous Enforcement and Blitzes

Since 1987, when street prostitution became a priority, police enforcement has taken two forms: continuous enforcement and enforcement blitzes.

If at all possible, all police officers in Morality DCO must arrest at least one prostitute and one client per week in addition to their other duties. At SIR Centre, one or two teams spend four days a week on street prostitution and arrest two to three people daily.

This enforcement is carried out at the request of the Director of Station 33, who noticed a high petty crime rate (thefts from cars and so forth) in his sector. At Station 34, during the Park Project, ten police officers are assigned to control prostitutes, every day from May to September. Similar enforcement was applied on Pine Avenue from November 1986 to April 1987. Following complaints from a grade school principal and a woman resident, SIR Centre asked its police officers to patrol Pine the end of their shift and make an arrest, if there were grounds for it. The operation lasted until the problem was eliminated, as observed during our counts. This is what is known as continuing enforcement.

In addition, however, since February, 1988 various units have resorted to clean-up operations known as blitzes or crackdowns. These operations involve several policemen and women and target either one particular district (such as the "Main" or Pine Avenue) or all the primary prostitution districts at once.

Aim of Blitzes

Essentially, blitzes serve two purposes. The first is to create a deterrent impact through massive police intervention which can last several hours or several successive days. They result in many arrests and some coverage in the mass media. The second purpose is to use end-of-month and end-of-year blitzes to meet previously-established arrest quotas. Very often, the blit serve to restore the prostitutes\client arrest ratio.

Frequency of Blitzes and Operating Conditions

There are two types of blitz. The systematic single-evening crackdowns once or twice a month that involve all personnel. They are ordered by the officers in charge of the various units. As well, there are special blitzes to coincide with special events or special circumstances. These may be ordered by MUCPD officials, the Director of the Co-ordination/Morality Section or unit commanders. The director of district 33 has only ordered one blitz (when a megadiscotheque was opened), and the management of the Co-ordination/Morality section only ordered the December 1986 and November 1987 crackdowns on clients.

Special blitzes have been held for the following reasons

- to achieve a stated objective. Sometimes, units are busy with other duties (gathering evidence against a brothel, surveillance at a public event and so forth) and make fewer arrests than planned. That is when unit heads stage a "catch-up blitz". In June 1987, for example, SIR Centre police were busy putting together a brothel case and surveillance for the St Jean Baptise holiday. That is why on June 25, 12 teams launched a one-night crackdown;

- to restore the arrest ratio of prostitutes to clients. In December 1986, for example, Co-ordination/Morality Section management ordered a general blitz on clients, involving SIR Centre and Morality DCO (stations 33 and 34 seconded policewomen). The operation lasted two weeks, with six policewomen, and led to the arrest of 201 clients. In November 1977, 111 clients were arrested following a ten-day blitz;

- to update files. When there are too many new faces, a blitz is organized, after which pictures are taken and identities checked. Movement from Halifax, Toronto or the United States is confirmed in this way;

- to keep the number of prostitutes as low as possible. When it rises too high or they become too visible, police carry out an operation to show that they are exercising surveillance and thus discourage new recruits. Morality DCO and SIR Centre undertake this type of operation when the fine weather sets in, for example. At Station 34, when the number of male prostitutes increases in the park and all staff are available, they crack down (about once a month, from September to May);

- to respond to complaints. Police receive few complaints (about ten since 1986). When complaints are founded, an operation is launched until the problem is cleaned up. This occurred when merchants on St-Denis, near Christin, complained that the presence of prostitutes drove away or bothered their customers. Police staged several mini-blitzes until the problem was solved;

- to coincide with public events. In late May 1987, a megadiscotheque opened its doors in the heart of the "Main". Since several dignitaries were expected at the opening, the Director of District 33 asked the Co-ordination/Morality Section to take action. A three-day blitz was held. On opening night, the prostitutes still in the street could be counted on one hand. During the Montreal International Jazz Festival, Morality DCO police undertook a ten-day blitz, from June 26 to July 5. As we showed in the section on sustained enforcement, this crackdown was as successful as was hoped;

- to prevent the development of a new streetwalking area when prostitutes shift territory. This was the case for Ontario and St. Catherine east of Papineau. Prostitutes who wanted to get away from police enforcement and/or had been placed under district restrictions had migrated eastward. Blitzes were held until the situation returned to normal. A similar pattern occurred in mid-August when about ten prostitutes were working on Champlain, between Sherbrooke and Ontario. SIR Centre and Morality DCO held several crackdowns;
- to test the effectiveness of police undercover work. In February 1986, police wanted to know whether arrangements made during undercover enforcement would be accepted by the courts. Station 34 assigned four policemen to work undercover around homosexual prostitutes for 35 days. A total of 68 charges were laid against about 30 different male prostitutes.

Frequency of Blitzes

In 1986, SIR Centre held six or seven blitzes. By June 30, 1987 it had run only one, on June 25. Morality DCO ran 14 one-night blitzes in 1986 and one two-week blitz with SIR Centre, during Operation Client in December. By July 10, 1987, six one-day blitzes, one three-day blitz and one ten-day blitz had been held. At station 34, there was the 35-day blitz in 1986 and a few others when an increase in prostitutes was noticed in the park.

Results of Blitzes

A typical one-night crackdown involving, for example, the 17 officers from Morality DCO would lead to about 25 to 30 arrests, divided evenly between prostitutes and clients. About 20% of prostitutes would be homosexuals and 20% transvestites/ transsexuals. Bench warrants would be issued against 15% of female prostitutes who did not appear in court, while 40% would have another case pending, 80% would be repeat offenders and 20% would already be under an area restriction.

Even if a blitz leads to several arrests, many police officers believe their deterrent effect is temporary. After a few days, the prostitutes reappear. That is why some police officers prefer continuing enforcement with prostitutes arrested every evening. This strategy may keep prostitutes from thinking they have periods of respite. Despite this concern, the police believe blitzes have some dissuasive effect on clients, especially if they are reported in the media.

Cost of Blitzes

Our respondents could not estimate the cost of blitzes. All, however, asserted that they occasioned very little extra cost. Operations are only carried out with staff during their normal working hours. Moreover, up to June 1987, few trials had taken place. Guilty pleas were entered by 72.5% of clients and 47.2% of prostitutes (Table 18). Those who pleaded not guilty took the line that the law was unconstitutional. Their cases were put over pro forma until after September 30, 1987, when a judgment on that was expected. Testifying did not require much overtime. Moreover, since the work is done during regular hours and staff has not been increased, the supervisors say that if they did not stage crackdowns, their officers would be busy with other duties that also need undercover officers and unmarked cars (regular enforcement, anti-brothel enforcement, anti-pimping enforcement and so forth). One supervisor estimates that a third of salary and overtime is recovered through fines. Only the presence of two police witnesses at the few trials would represent an increase in cost over 1985, when only one police officer testified in 333-3(a) cases.

2.1583 District Restrictions

In fall 1986, repeated fines did not seem to discourage prostitutes on Pine Avenue. Morality DCO decided to resort to the strategy used successfully by the narcotics section and Station 33 against drug pushers on St-Denis: have the judge impose district restrictions as a bail condition.

At the same time, two patrolmen from Station 33 were evaluating this for systematic use in their sector. Their director, convinced that there is a link between the presence of prostitutes and certain other crimes (robbery and so forth), encouraged them to follow this up.

Moreover, since January 1987, the liaison officer, through the Crown attorneys, has systematically called for an area restriction for repeat offenders who plead not guilty and has occasionally asked for it in probation orders. Both officers at Station 33 make sure each week that they know who is under such restrictions. They post a photo of each prostitute in the station meeting room and distribute an up-to-date list (Appendix 18) to their colleagues. Before starting every shift, officers may consult the photo board and with the list of names, they check for violation of bail conditions. This list is also forwarded to police at SIR Centre (upstairs) and Morality DCO. This allows them to find out immediately, after making an arrest, if the prostitute has violated conditions of bail or parole.

As of July 10, 1987, 124 prostitutes were under district restrictions as a condition of bail and 14 were under them as a condition of probation. In all, 21 different areas were designated (Appendix 19). The area most frequently mentioned is that bounded by Rachel to the north, Viger to the south, St-Urbain to the west and St-Denis to the east.

All our respondents think that about half of prostitutes comply with district restrictions. Police confirm that the decrease in prostitutes is due more to these restrictions than to arrests and fines. Despite this, however, police at SIR Centre do not favour the measure, because the shifts of prostitutes to different areas forces them to divide up their teams, causing loss of time and productivity. They think that concentration in the same sector facilitates enforcement.

We should add that the Centre Region analyst observed a decrease in the crime rate in Station 33's sector, but he also noted an increase in surrounding stations' sectors. The Director of Station 33 realizes that by driving prostitutes out of his territory, he may cause problems for other stations. His duty, however, is to reduce the crime rate in his sector. He succeeds in this with district restrictions. He leaves other stations to find solutions to their new problems.

2.1584 Other Strategies

The MUCPD also resorts to other strategies:

(a) Electronic Listening

At the very outset, the MUCPD wanted to be sure to of obtaining evidence beyond the testimony of undercover officers to the effect that a prostitute had initiated communication regarding price and type of sexual services offered. It was not then known whether an undercover officer's testimony would be challenged. A receiver was hidden on the undercover agent's person and a the conversation was recorded in a truck. This method was used in about forty cases, then dropped because it was found that the courts considered the undercover officer's testimony sufficient. Moreover, the vast majority of offenders pleaded guilty. The strategy also proved too expensive. It called for an undercover officer, another officer to make the arrest, a truck equipped with expensive electronic equipment and two officers inside it.

(b) Arrest in the Act

As mentioned earlier, a statement from a client is preferable in cases where surveillance and tailing are used. In 1986 and early 1987, SIR Centre police preferred this method. Accordingly, they decided to surprise the prostitute and her client during sexual relations. The client is embarrassed and does not have the time or concentration to put forward a different interpretation of the facts. The vast majority make the statement police want.

(c) Arrest of a Prostitute and Her Client Leaving a "Tourist Room"

In these circumstances the client feels guiltier, and knowing he has been followed by police, he is more inclined to make an accurate statement.

(d) Warning Clients

After an arrest and before allowing a suspected client to leave on an interim release, some police officers warn a suspect that if he is arrested a second time, he will be considered a repeat offender and detained overnight. He will then have to explain why he did not come home.

(e) Work Schedule Adjustment

Initially, police did not work Saturday and Sunday. Their regular hours were 4 or 5 pm to midnight or 1 am. Prostitutes altered their schedules accordingly, so that at 3 am, there were many more prostitutes than previously. Police adjusted their work schedule to counter this.

(f) Use of Publicity

Since January 1987, supervisors have decided to make crackdowns more effective by informing the media after a major operation. They hope this will discourage prostitutes and potential clients. The February 24, 1987 progress report concludes with the following paragraph:

> In addition, we hope that the publicity given by the news media to the fact that prostitutes' clients can also be charged under subsection 195.1(1) will reduce demand for this type of service.

In fact, all the clients we met had learned from the media that they could be arrested. The police also turned to the media when they arrested Lise Thibault, a prostitute with terminal AIDS, and Donna Newman (appendices 20 and 21). One of the articles advised clients to take AIDS antibody tests. There is also regular publicity about police operations against clients which even make the front page of newspapers (appendices 22 and 23). We should make clear, however, that publicity is not always planned, as Appendix 24 shows.

2.16 Problems Relating to Enforcement

As a general rule, our respondents consider the law easy to enforce. Some, however, report a few difficulties and challenges.

2.161 Surveillance and Tailing Operations

One problem mentioned by SIR Centre police is that Crown attorneys make them prove each time that a prostitute is really a prostitute. Thus, they need to observe several instances of communication. The process is long, expensive and unproductive in terms of number of arrests since police are not sure of getting a statement from the client. About 40% of clients refuse, claiming that the prostitute is a friend they meet now and then and do not pay.

2.162 Undercover Operations

While only one car and two policemen are needed to arrest prostitutes, two cars and three police officers, including an undercover policewoman, are needed to arrest clients. The first car blocks the road in front of the client's car while the other moves in behind. This precaution is taken to guarantee the policewoman's safety if the client becomes violent. This type of operation is, thus, more expensive.

Furthermore, there are not many unmarked cars. After a while, prostitutes or their protectors (friends or pimps) recognize them. The prostitutes then withdraw inside bars or restaurants. To deal with this problem, the Co-ordination/Morality Section tries to get cars from other units, but that is not always possible.

Fighting homosexual prostitution also has its problems. Policemen who must pose as clients during the five months of the Park Project try to treat it as a game at first. After a while, however, they can no longer "put up with homosexuals." Some even ask for a change of patrol, and the rest become less motivated. Until August 1987, no policeman was willing to pose as a male prostitute to arrest clients. In August, four officers were assigned to this duty.

A fourth difficulty is fear of AIDS. Many policemen do not like working undercover because they are afraid of surprise reactions by male or female prostitutes with AIDS. They are afraid the prostitutes will bite them or spit in their faces. When one of them arrested Donna Newman, a prostitute carrying the AIDS virus, his only concern was that she stay calm. In August 1987, Lise Thibault, a prostitute with AIDS in its terminal phase, bit and spat at two investigators. They took blood tests and the supervisor wondered how to react if the tests proved positive. Others have told us they would not try to conclude an arrangement to gather evidence against a man or woman who had AIDS. Even danger is an occupational hazard for these people, AIDS is considered a special risk, against which they have no defence.

The fear of AIDS influences the fight against homosexual prostitution most of all. Such prostitution, in the streets or lanes of the gay community, is not affected as such. To control it under section 195.1, police would have to infiltrate bars and restaurants to get to know those who sell sexual services, and then negotiate a price undercover to prove communication. No policeman, however, wants to work undercover in an environment where the risks of contracting AIDS are believed to be higher. Moreover, the police who must enforce gross indecency laws or laws against other crimes not only wear rubber gloves for searches, but cover them with their leather gloves for fear of being pricked by a syringe soiled by an AIDS carrier.

A final problem is the difficulty of achieving the ideal ratio of one client arrested for each prostitute. Because there are few policewomen available to work undercover, one supervisor says it would be necessary to arrest only clients for a month, without arresting prostitutes. This would run counter to the Police Department's objective of fighting the nuisance caused by street prostitution as growing numbers of prostitutes would solicit.

2.163 Complications Following District Restrictions

Police mentioned some of the consequences of the strategy of systematically resorting to district restrictions.

When summer approached, several prostitutes preferred to plead guilty in order to avoid an area restriction that would have meant a substantial drop in income. Prostitution and related crimes are also shifting their ground, as mentioned by the Centre Region's analyst. Homosexual prostitutes, for their part, have moved to St-Louis Square and Baldwin Park, or to public washrooms. Heterosexual prostitutes have moved a few blocks over from the "Main" district (St. Catherine and Berri, St. Catherine and Clark), to St. Catherine and Drummond and on to Pine Avenue, or have attempted, together with homosexual prostitutes, to open up a new area on Champlain between Ontario and Sherbrooke. Since the beginning of August, SIR Centre has arrested about thirty prostitutes at this location. Half of them were under district restrictions.

This shift causes new problems. First, it forces SIR Centre and Morality DCO to split up their teams, which means loss of time and effectiveness. Second, prostitution may go on for some time in a new area without interference by the police, who are not necessarily aware of every move. According to a SIR Centre supervisor, there is a great deal of movement away from the main district, but only five percent of arrests are made outside that area. When police begin to act, prostitutes move again. Third, police believe the presence of prostitutes on a new street may encourage beginners, who might not have thought of it, to get into the trade. When arrests were made on Champlain, for example, police arrested two new prostitutes who lived on that street. Finally, the surrounding stations are faced with an increase in related crimes.

Most police think that district restrictions will drive prostitutes underground. They will still need money to live or pay for their drug habits, and regular clients will always have their needs.

Police also face another problem: wrongful arrest. Using breach of district restrictions as an additional enforcement tool requires regular updating of the photo board and the list of names. There are only two officers at Station 33 to do this update. While they are on vacation, there is no one to carry on. Consequently, at least three times, police have arrested and charged prostitutes for breach of district restrictions after the courts had judged them for the same offence. The Crown attorneys withdrew charges and everything ended well, but the police could have been prosecuted for wrongful arrest, were it not for the liaison officers' efficient administrative methods.

2.164 Legal Challenge to Use of an Undercover Policewoman

The Quebec Court of Appeal is to rule in fall 1988 on the first challenge to s.195.1. The issue is the legality of using an undercover policewoman. In *Regina v Ruest*, the Municipal Court recognized that the client could not be found guilty of hiring a prostitute because the policewoman was not one. The Superior Court reversed the decision, declaring that what counted was the client's intent and that the client did, in fact, mean to retain the services of a prostitute. At the time of writing this report, the client had received leave to take his case to the Quebec Court of Appeal.

2.165 Leniency of Sentences

Most police officers think sentences for prostitution are too light in relation to income earned. Prostitutes are fined $300 for a first offence, $500 for a second and $700 to $800 for a third. In our sample, the average prostitute had been arrested 2.4 times since January 1986 (Table 59) and been fined $378.65 (Table 28). Police do not consider this amount a deterrent, given that regular prostitutes earn $25,000 and more. They would prefer higher fines, and more important, prison sentences, which should be given sooner (after the third offence, for example). The liaison officer planned to arrange with the Crown attorneys that, by the third offence, a prostitute would pay a fine and spend a day in jail. Thus at the next offence, a call for incarceration would be more acceptable to judges. The prostitute would also be more careful, knowing that her next offence would bring a minimum of seven days in jail.

2.17 Perceptions

2.171 Aspects of Street Prostitution Requiring Police Intervention

Most police officers consider that street prostitution, in itself, justifies enforcement because it is a nuisance in several ways. Not only does its vulgarity make it a nuisance for citizens, merchants and drivers who want peaceful enjoyment of their surroundings, but it draws petty criminals and drug dealers. And it is partly responsible for the spread of venereal diseases, including AIDS. Indeed, one of the supervisors observed that if prostitutes were ever identified as an important link in the chain leading to AIDS and the police had stood idly by idle, the politicians would call them to account.

2.172 The Law's Worth

All respondents felt that the law had more advantages than disadvantages and half saw no disadvantages.

2.1721 Advantages

Among the advantages mentioned, the following recur most often:

- because it is a federal law, prostitutes have no reason to move to another city in the MUC to avoid enforcement. In contrast to by-law 333-3(a), the law applies in all 29 MUC municipalities and surrounding suburban cities;

- because it is federal, the law allows for imposition of district restrictions as a condition of bail, detention of repeat offenders, large fines and prison sentences. All these advantages make the law more effective than municipal by-law 333-3(a);

- because the law offers a tool which is easy to apply and fairly effective, police are more motivated and are even encouraged to set achievable goals for themselves;

- because the law defines communication for purposes of prostitution as a crime, it has greater public impact than did a mere municipal by-law did;

- because of district restrictions, police can often make an arrest before a deal for sexual services is even made in a public place in a public place;

- because a vehicle is defined as a public place, enforcement of the law combats gross indecency within the sight of passers by, such as occurred on Boisbriand and Pine Avenue before the law. Children coming out of school used to witness "blow-jobs" in cars on

Pine Avenue. Residents of the Jeanne-Mance housing project witnessed the same acts in their own or nearby parking lots;

- the fact that clients can be arrested reduces the roots of the problem;
- the law makes it possible to identify prostitutes and clients by means of photos and identity checks. Only a minority seem to object to having pictures taken, although it is not compulsory;
- lastly, the law seems to have an impact on pimps, who have to give up prostitutes because they are under district restrictions or because fines are too high following repeat offences and possible violations of bail or parole conditions.

2.1722 Disadvantages

Those respondents who saw disadvantages cited the following, among others:

- the term "prostitute" is ambiguous, and leads to challenges to the law's enforcement;
- prostitutes moving to other areas make the law harder to enforce;
- prostitutes moving to other types of prostitution or new locations make evidence more expensive and harder to gather (escort agencies, for example);
- the harder it is to ply the trade, the more secret it will become and the greater chance of pimps being involved;
- fines may only encourage prostitutes to work harder.

2.1723 Achievement of Objective

Regarding heterosexual prostitution, the majority of respondents with an opinion believe the law has met its objective of controlling street prostitution better. They are beginning to notice a decrease in the number of prostitutes in the "Main" sector and on Pine Avenue. District restrictions are doubtless the factor that has had the strongest effect on the number of prostitutes in the Station 33 sector. Indeed, the director thinks that the results speak for themselves.

Respondents listed the following factors to justify their views:

- a progressive scale of fines and the prospect of jail deter prostitutes;
- district restrictions and bail and parole violations reduce their income;
- the arrest and charging process discourages clients;
- publicity deters potential prostitutes and clients;
- the new law keeps US prostitutes and those from other cities away because they know about police enforcement in Montreal.

On the other hand, four respondents think that there are still as many prostitutes but that they have moved, gone underground, or have been replaced by new ones. Three do not know and one acknowledges that the original goal of reducing public nuisance has not been met, but the law has kept the number of prostitutes from increasing.

Those who do not believe the law has been a deterrent, give the following reasons:

- prostitutes are less afraid of the police than of running out of money because of their drug dependencies;
- prostitutes who disappear from one area resurface in another;
- enforcing the law has only changed work habits (hours, days and areas), for fines are not a deterrent and there are few prison sentences;
- the law only bothers occasional or opportunistic clients. Regular clients know how to evade police by selecting prostitutes they know;

- there will always be clients in need of and prostitutes ready to offer their services.

Regarding homosexual prostitution, all respondents think the objective has not been met, mainly because SIR Centre and Morality DCO have given priority to the "Main" and Pine Avenue. Consequently there are fewer repeat offenders among homosexuals, and hence fewer detentions and fewer district restrictions. Furthermore, homosexual clients have hardly ever been targeted in enforcing the law.

2.18 Recommendations

Twenty of our respondents, who answered this question, gave an opinion on the legal approach to street prostitution that they prefer. Table 4 shows how divided their opinions are, for 50% of those who gave an opinion favour legalization and 50% criminalization. They are unanimous, however, about decriminalization: no one wants it. Where legislation is concerned, comments received suggest to us that this was viewed more as decriminalization with regulations to control nuisances, than as government taking over the business.

TABLE 4
LEGAL APPROACH RECOMMENDED BY POLICE (N=20)

Decriminalization	Criminalization	Legalization	Undecided	Total
0	7	7	6	20

Those who preferred to maintain criminalization also called for heavier fines and more prison sentences. One mentioned harsher sentences for clients of underage prostitutes. Another suggested making soliciting a hybrid offence, because it would be taken more seriously than a common summary offence. Fines would be higher, and the police could establish a national file with fingerprints. This respondent even recommended that after a certain number of repeat offences, soliciting should become an indictable offence. Another suggested publishing clients' names, as is done in some

US cities. Yet another suggested that the legal system should bring in tax and welfare representatives. He believes that if a prostitute, in addition to paying a fine for an offence under section 195.1, must also pay tax arrears on her estimated income and lose her welfare entitlement, she will be more willing to work for the minimum wage.

All who opted for legalization insisted that it be controlled by an agency or people who had no connection with the underworld and could keep pimps out. They think that if Parliament has not seen fit to make prostitution a crime, it would be better to make it legal.

As for the six who were unable to decide in favour of either alternative, they saw disadvantages with both and did not know which was the lesser of two evils.

Half of those respondents who favoured one alternative or the other called for systematic testing for STDs and mandatory treatment, if required. The other half did not agree because such a measure would be ineffective and discriminatory.

We also wish to emphasize that several of the respondents who advocated criminalization put forward arguments against legalization. Among these were the fact that organized crime would find a way of infiltrating it, that prostitutes who did not meet hiring criteria would engage in prostitution secretly and that there would always be clients for quick, cheap and anonymous service which legalized prostitution would not offer. Two supervisors told us roughly this: "Many people may not be against prostitution, but no one would want it in his back yard". Thus the problem of finding a place of business for prostitution would remain unresolved. Finally, one of the respondents stated that legalizing prostitution would degrade women and reduce them to the level of animals or objects.

One supervisor, sure that many pimps are in the business, recommended deleting the phrase "for the purposes of gain" from paragraph 195.1(h), which is aimed at pimping. The new subsection would read:

> (195.(1) Everyone who
>
> (h) exercises control, direction or influence over the movements of a person in such a manner as to show that he is aiding, abetting or compelling that person to engage in or carry on prostitution with any person or generally, is guilty of an indictable offence and is liable to imprisonment for ten years.

This new wording would make pimping easier to prove and help the youngest prostitutes to be rehabilitated.

2.2 Municipal Court Crown Attorneys

As mentioned, we interviewed the Crown attorney in charge of morality cases and two of his colleagues.

2.21 Brief Description of Progress of s.195.1 Cases

In Montreal, all street prostitution cases go through Municipal Court where four Crown attorneys specialize in morality cases. Although some lawyers have tried to have these cases heard in the Court of Sessions of the Peace, MUCPD legal services tries to maintain the status quo, believing that sentences would be lighter in the Court of Sessions of the Peace.

2.211 Progress of Cases Following Release on Promise to Appear

First offenders are usually released by police after promising to appear about one month after their arrest. A minority receive a summons.

2.2111 Appearance

Most prostitutes and clients do appear (Table 62). If they plead guilty, they are fined about $300. If they pay it before leaving the Court, they will not receive a statement of account at home and their case will be closed. If they plead not guilty, a date will be set for pro forma adjournment or trial. Depending on the trial's outcome, they will be released or fined about $300.

2.2112 Default

A minority of prostitutes and clients do not keep their promise to appear (Table 62). The judge then issues a warrant to arrest them for default, valid within a radius of 50 km. If the warrant is served, the delinquents are detained until they appear the next day. If they plead guilty to their offence under s.195.1 (as the majority do), the judge fines them about $300. There is no sentence for defaulting, as the judge thinks that one night in jail before appearing is enough. If the accused plead not guilty under s.195.1, they must justify their failure to appear. If the judge accepts their justification, a trial or pro forma adjournment date is set and the accused are freed on their recognizance. If, on the other hand, the justification is not accepted, the accused will be detained until trial, which must take place within one week. If the not-guilty plea is related to *Cazès*, however, the Crown attorney will ask for a pro forma adjournment until after September 30, without detention. There is an agreement among judges that none will hear cases relating to the constitutionality of the law until Massé J. has handed down his judgment.

According to the Crown attorney in charge, a warrant not served after six months makes a case difficult to prove, because witnesses forget important details. After five years, cases are dropped.

2.212 Progress of Cases Following Pre-appearance Detention

As we shall see later, a number of prostitutes and a few clients are held after arrest because they are repeat offenders, give false addresses or ID, have no fixed address or their place of residence is too far away.

If detainees plead guilty, they are given a fine or a number of days in jail, depending on the number of repeat offences, violations of bail or parole conditions or obstructions of justice. In rare cases, they also receive a probation order. As of July 10, for example, according to the Station 33 chart, 14 prostitutes had district restrictions under a probation order.

Those who plead not guilty (in connection with *Cazès*, as a rule) are released for the interim with district restrictions until their trial date.

2.213 Liaison Officer's Role

Complaints (requests to initiate proceedings) written up by police officers and summaries of the facts are reviewed by the liaison officer, who has them approved by the competent Crown attorney. The latter ensures that the complaint is worded correctly and that the evidence appears in the summary of facts (this is the case in 99% of complaints). Then the liaison officer prepares an information (Appendix 22), takes an oath and has it approved by a judge.

Before first appearances, the Crown attorney is the person with whom defence lawyers, if appropriate, negotiate the amount of fines and/or bail conditions. The results of these negotiations are, of course, subject to approval by the Crown attorneys on duty.

The officer is always present at appearances and trials. If the accused is found guilty, he relates the record that justifies the sentence requested by the Crown attorney. If the accused pleads not guilty, he suggests to the Crown attorney that he ask for an area restriction.

2.22 Impact of the Law on Prosecution Policies

The law's only two effects relate to area restriction and detention policies. Restrictions were already used in bawdy-house cases (193.1 and 193.2). After discussion with Station 33 police, a systematic policy of imposing district restrictions for repeat offenders was introduced. As for detention, it is a new possibility since the period when charges were laid under municipal by-law 333-3(a) Crown attorneys have thus encouraged a policy of pre-appearance detention.

2.23 Impact of the Law on Prosecution Methods

2.231 Evidence Required and Type of Relations with Police

As police officers mentioned, they have very close relations with Crown attorneys. The attorney responsible for morality cases provided training on how to formulate complaints under section 195.1 and on the details needed in summaries of the facts. He wanted to standardize and centralize the judicial process in a decentralized police system. Consequently, there is regular consultation with the various supervisors or liaison officers.

Evidence requirements are, naturally, the same as was those mentioned by police since the Crown attorneys themselves formulated them. Evidence of communication as to a price and a sexual service, either from the testimony of an undercover police officer who plays a passive role, or from that of the client when the police make the arrest following surveillance and tailing, must be obtained. In the latter case, the circumstantial evidence must demonstrate that the person really was a prostitute and that the communication, with transfer of money, really was for a sexual service, not for drugs or other services. Hence the importance of catching the accused in the act and obtaining a statement from the client. In addition, Crown attorneys want to be able to call the client as a witness against a prostitute when she pleads not guilty.

2.232 Rate of Charges

Thanks to the close relations between Crown attorneys and police and because the latter have become specialists in s.195.1 cases, nearly 100% of complaints are approved by Crown attorneys. Rarely is a case is rejected because it is based on circumstantial evidence (surveillance and tailing). Rejection occurs when police do not get a statement from the client.

2.233 Special Strategies

2.2331 To Obtain Guilty Pleas

Crown attorneys have advised police to use pre-appearance detention as much as possible. They are convinced that a night in jail disposes suspects to plead guilty. Thus, detention follows a repeat offence, the issuing of a bench warrant, an arrest for breach of conditions, doubts about identity or an address that cannot be checked.

Furthermore, as the high season approaches, the threat of being placed under an area restriction and losing income is thought to discourage prostitutes from pleading not guilty. Hence the effectiveness of the area restriction policy.

2.2332 To Obtain Longer Sentences

With their area restriction policy, Crown attorneys have also encouraged arrests for breach of bail conditions (by-law 133-3(b)), thereby doubling the number of offences and consequently making sentences more severe. Thus, as well as being fined $500 to $1,000 for a repeat offence under section 195.1, the prostitute will be fined about $300 for a first offence under by-law 133-3(b) and get one or two weeks in jail for a repeat offence.

2.2333 To Deal with Several Offences at Once

To clear the dockets and encourage guilty pleas, Crown attorneys may agree to have all pending cases heard at the same time. They then suggest to the judge a lighter sentence than if each case were dealt with separately and considered a repeat of the previous offence. Thus a prostitute may be fined only $900 for three cases heard at once (3 X $300), whereas she could have been fined about $1,500 if each case had been heard separately ($300 for the first, $500 for the second and $700 for the third).

2.2334 To Have Cases Heard in Municipal Court

When an arrest is made for breach of conditions or obstructing justice, Crown attorneys cite the paragraph that makes the offence a summary rather than an indictable offence. Otherwise the case would be heard in the Court of Sessions of the Peace, with the possibility of a jury trial. Generally, sentences are lighter there.

2.234 Type of Sentences Demanded

For s.195.1 cases, Crown attorneys usually ask that prostitutes and clients be fined $300 for a first offence, from $500 to $700 for a second, from $700 to $1,000 for a third (one of the Crown attorneys calls for 14 days in prison), and a fine plus one, two or three weeks of jail for the fourth. One Crown attorney says he asks for prison sooner, if he sees the prostitute plans to defy the law.

These sentences are more severe than those provided for offences against municipal by-law 333-3(a). Prostitutes used to be fined $75 for a first offence, $150 for a second and $250 to $350 for a third.

For breach of conditions (133-3b.), Crown attorneys call for about $300 for a first offence and jail for a repeat offence.

2.235 Use of s.195.1 Other Than on the Street

Crown attorneys have agreed to charge about ten prostitutes arrested in bars in Montreal's large hotels under section 195.1.

Those prostitutes who pleaded not guilty (30%) did so on the grounds that the law was unconstitutional - not that it could not be validly enforced in bars. One prostitute who committed a repeat offence in a hotel was prohibited from returning there.

Thus, section 195.1 is used off the street in only a tiny fraction of cases (about ten out of 3,600 from January 1986 to October 1987).

2.24 Difficulties Encountered

Since direct evidence (contact through undercover police) is 100% effective and circumstantial evidence (surveillance and tailing) has been accepted by the Court, Crown attorneys face only two serious difficulties. The first is the challenge by Cazès *et al* that the law is unconstitutional. This set the tone for not guilty pleas. Before that case, 95% of prostitutes pleaded guilty, according to Crown attorneys, whereas since 1987, only 10% to 30% have pleaded guilty, and then only to escape an area restriction. This challenge led to a large number of pro forma adjournments until after September 30, 1987. After Massé's judgment recognizing that the law is constitutional, the majority of cases were put over pro forma until January, February and March 1988. The defence decided to appeal the judgment, which will further complicate the judicial.

The second difficulty is not yet affecting Crown attorneys' work. This is the challenge in the Court of Appeal that it is illegal to use an undercover policewoman. If the Court of Appeal were to uphold the complainant, the entire system for arresting clients and the longed-for reasonable arrest ratio of prostitutes to clients would be challenged again.

2.25 Perceptions

2.251 Applicability of s.195.1 Other Than on the Street

The three Crown attorneys think that this section can be used in other places to which the public has access. They have, in fact, accepted complaints of this type for hotel prostitution. They all say, however, that the law applies mainly in the street. They would only use it elsewhere if complaints of nuisances were received.

2.252 Aspects of Street Prostitution Requiring Legal Intervention

Crown attorneys mentioned three important considerations that justify criminalization. The first is the social disturbance caused by vulgarity, indecency in cars, visibility, nuisance to pedestrians and drivers, degradation of the social fabric and decreases in property values. The second is criminal activity associated with prostitution, namely pimping, bawdy-houses, drug traffic, theft, violence and rape. The third is preventing young people from seeing prostitution as a career prospect when they lack education or have not looked hard for work.

2.253 Merit of the Law

All see more advantages than disadvantages to it. The law provides for jailing, bail; under certain conditions and charging clients. Moreover, it does away with the need to prove pressing and persistent soliciting which was needed under the previous Section 195.1 after the *Hutt* decision. In this regard, the law is a good tool and easy to use. According to one Crown attorney, arrest and the court system might discourage young people getting started in the world's oldest profession from building a career in it. This alone would justify keeping the law. As for clients, this attorney concludes, "Fear is the beginning of wisdom".

The only disadvantage mentioned is that soliciting is considered a summary offence. Fingerprints cannot be taken and it is impossible to find out whether a prostitute has a record in another city, under section 195.1

As to whether the law is controlling public soliciting more effectively, the three Crown attorneys state that it does so. It makes cases easier to prove and helps, over the medium term, to reduce the number of clients and prostitutes. One Crown attorney says the objective would have been 100% achieved for prostitutes had not the *Cazès* case paralysed the judicial process. Clients, meanwhile, are turning to bars or other services. Clients are influenced less by the law or fear of being caught than by fear of their wives finding out.

The law is also a useful tool to encourage the social rehabilitation of a prostitute wishing to leave the field, because it enables judges to set bail or parole conditions.

2.26 Recommendations

The three Crown attorneys favoured keeping solicitation a criminal offence. They added the following recommendations, however:

- keep paragraph (*c*) but delete (*a*) and (*b*), which are unrealistic;

- delete the term "prostitute" to avoid challenges to an undercover agent posing as a prostitute;

- rephrase paragraph (c) on communication so as to avoid challenges under the *Charter of Rights and Freedoms*;

- make fingerprinting mandatory;

- provide for medical testing and clarify the judge's powers in the event of refusal to be examined or treated;

- ensure that judges work together with police and Crown attorneys by passing stiffer sentences.

2.3 Defence Lawyers

We questioned four legal aid lawyers, including the two directors of the Municipal Section.

2.31 Impact of the Law on Use of Defence Lawyers

According to the liaison officer and the defence lawyers, nearly all prostitutes are aware that the bill's constitutionality has been challenged and call in legal aid lawyers. They have an office in front of Court #1 and are usually consulted shortly before an accused appears, especially by those who have been detained. It is impossible to determine the number of legal aid cases and the costs incurred, because they are not all recorded.

2.32 Impact of the Law on Defence Lawyers' Methods

2.321 Nature of Bail Release Conditions

Defence lawyers confirmed the existence of the district restriction and detention policies adopted by Crown attorneys and police. They think that about 5% of prostitutes who intended to plead not guilty would change their minds when they learned the Crown attorney planned to ask for a district restriction. They also believe that detention, prior to a court appearance, is a police pressure tactic used to obtain a guilty plea. According to one lawyer, 70% of detained prostitutes plead guilty because of being held. Lawyers go so far as to claim that police, who are very aware of detention's effects, abuse it by even holding prostitutes who should not be detained (first offenders), whereas a habitual shoplifter, for example, would not be held. They estimate that about 85% of prostitutes are detained.

2.322 Strategies

Since the law was first enforced, lawyers have challenged its constitutionality on the grounds that it impinges on freedom, among other things freedom of association and freedom of expression (subsections 2(b), 2(d) and 7 of the *Canadian Charter of Rights and Freedoms*). On September 30, 1987, Massé J. ruled that the law was constitutional. Defence lawyers have appealed this decision to the Superior Court.

Lawyers have also challenged the validity of circumstantial evidence. In March 1985, however, Massé J. recognized its value when it allows no other construction than prostitution. That judgment was not appealed.

They have also challenged the legality of using a policewoman as an undercover agent. Since she is not a prostitute, a client cannot be accused of communicating with a prostitute. A trial court judge ruled a client not guilty, but the Superior Court reversed the decision, stating that the client's intention to obtain the services of a prostitute is sufficient evidence and that one of the law's specific objectives was to prevent clients from soliciting women pedestrians, who are not prostitutes, in the street. The lawyer has taken the case to the Quebec Court of Appeal.

Following the decision on constitutionality, nearly all the accused who made pro forma appearances continued to plead not guilty. These cases were accordingly put over for trial after January 1988. The accuseds' lawyers plan to plead unconstitutionality before another judge, since the Massé judgment is not binding on other judges at the same level.

This effect of this strategy is to overload the courts, causing months of preparation for many trials and requiring the presence of several witnesses. This gives lawyers some bargaining power when they try to get a better settlement for prostitutes' many repeat offences. The more time that passes, the likelier they are to be arrested again and the heavier the sentence. Lawyers then offer a comprehensive settlement that is more likely to be accepted by the Crown attorney.

Since lawyers know some judges and Crown attorneys are stricter than others, they have the case delayed by pleading not guilty. As a general rule, this is done by prostitutes who are or will be repeat offenders; whence the importance of getting the lightest sentence possible as a basis for the next offence. If a prostitute is sentenced to two months in prison for her nth offence, she is liable to face double the next time. Her lawyer will try to avoid this by having the case postponed, hoping to find a more lenient Crown attorney and/or judge.

2.323 Discussions Out of Court

Most often, out-of-court discussions are held with the liaison officer who all the facts the accused's prior record. They negotiate the amount of the fine, the number of days in jail or interim release conditions. Lawyers prefer to speak with the liaison officer rather than the Crown attorney. He is more interested in settling the case to avoid having witnesses resummoned (most of whom are police officers).

They discuss with the Crown attorney such matters as the chance of withdrawing a charge or the Crown attorney's objections to bail.

2.324 Type of Sentences Suggested

Initially, lawyers suggested $75 to $100 for a first offence, since fines for hybrid offences (such as shoplifting) were about $150. They suggested the same fines as were imposed for offences under municipal by-law 333-3(a), namely $75 for a first offence, $150 for a second and $250 to $300 for a third. They consider the offence to be the same as in 1985.

2.325 Defence Reactions to the Application of s.195.1 in Hotel Bars

Three of the lawyers represented prostitutes arrested by undercover police in hotel bars. None had challenged this type of enforcement of the law. Those of their clients who pleaded not guilty (30%) did so, not to challenge the validity of enforcing the law in bars, but to challenge its constitutionality.

2.33 Difficulties Encountered

The greatest difficulty is the harsh fines. Lawyers complain that judges treat section 195.1 offences more severely than hybrid offences. They have, for example, defended clients accused of assaulting their wives (a hybrid offence) who were given only a suspended sentence and bound over to keep the peace. That is why they think it is unreasonable to impose such harsh sentences on prostitutes and clients. They say that many of those sentenced cannot pay the fine and must do time.

The other difficulty is caused by wrongful detentions and district restrictions. In such cases, prostitutes prefer to plead guilty rather than defend themselves.

2.34 Perceptions

2.341 Applicability of s.195.1 Other Than on the Street

Three of the four defence lawyers think subsection (2) defines a public place broadly enough to cover hotel bars.

The fourth respondent, however, is convinced that the law cannot be enforced anywhere but on the street and not where there is no nuisance, as is the case in bars. He believes the legislator enacted this law only to do away with a public nuisance.

2.342 Aspects of Street Prostitution Requiring Intervention by the Law

All respondents were of the view that prostitution is not a serious enough problem to warrant a law with Bill C-49's scope. They state that it was passed to drive

Vancouver prostitutes out of residential neighbourhoods. In Montreal, however, street prostitution occurs in a commercial area.

They agree there should be enforcement to interdict street prostitution in residential neighbourhoods and control pimps.

2.343 Merit of the Law

None of them saw any advantages in the law. They believe it has no advantages except for police and Municipal Court. For the police, cases are easy to handle and the statistics make them look good. The system pays off for Municipal Court, given the heavy fines and number of repeat offences.

Ironically, they mention one advantage the law offers them: because it is poorly worded, they are sure it will be repealed. While another is drafted, prostitutes and clients will be able to carry on their activities in peace.

On the other hand, they see a number of disadvantages to the law:

- it adversely affects rights and freedoms. A prostitute cannot be in a public place without being cautious;
- the law is out of proportion to the crime. Prostitution is not illegal and is not a serious problem in Montreal, for it is carried on in a commercial district. A federal law is thus inappropriate for problems that could be solved by municipal by-laws;
- its enforcement overloads the courts. On August 24, 1987, a judge had to release from detention 15 prostitutes who had been unable to appear because of the roll backlog;
- practising prostitution is becoming more dangerous because prostitutes must work in secret and join a more criminal network (massage parlours, etc), or use an intermediary who is liable to exploit them;
- district restrictions make them move toward residential streets.

As for whether the law has achieved its goal, the lawyers answer yes and no. Yes, because the law is easy to enforce and many prostitutes are arrested, since nuisance does not have to be proved. Simple proof of communication is enough.

No, because the statistics create only an illusion of enforcement. Prostitutes continue to work because they have to pay heavy fines and have no skills training. Often they live off welfare because they have no alternative.

As for clients, the lawyers believe the process of publicity, arrest and being charged deter some. Since only a tiny percentage of clients is arrested, however, this will not stop prostitution. Clients accustomed to dealing with street prostitutes will continue to do so. The others will turn to other forms of prostitution.

2.35 Recommendations

Our four respondents made two main recommendations. First, they recommend abolishing paragraph (c) because it is vague, disproportionate to the act and an infringement on fundamental rights and freedoms. Second, they favour acting on the Fraser Commission's recommendations, namely:

- completely decriminalize prostitution and control it by means of municipal by-laws (such as zoning) and provincial laws;
- decriminalize small, self-contained brothels (two or three prostitutes) and control them by means of licenses;
- offer support to prostitutes who want to leave the business.

2.4 Judges

2.41 Impact of the Law on Judicial Methods

The three judges have noticed an increase in caseload compared to the period before Bill C-49. They attribute this increase in volume to police emphasis on street prostitution and to the fact that clients are now arrested.

2.411 Evidence Required

Judges require the same evidence as Crown attorneys. One of the judges, however, acquitted a client arrested following contact with an undercover policewoman. He demanded evidence from the Crown attorney that the person whose services the client wished to purchase was really a prostitute. Although his decision was reversed by a Superior Court judge, he nevertheless continues to believe that no offence is committed if an undercover policewoman is involved. In contrast, the other two judges think that the client's intent is the important point in evidence. One of the judges was the man who had accepted circumstantial evidence (by surveillance, tailing and caught in the act) when the facts could not be construed to lead to any conclusion but prostitution.

2.412 Bail Release Conditions

Two of the three judges oppose district restrictions. They feel that they only double the grounds for arrest (195.1 and 133-3b.), increase fines and speed up the tendency to jail accused. Furthermore, they drive prostitutes onto residential streets. These two judges do, however, impose district restrictions when both lawyers agree.

The other judge favours district restrictions and uses them for a second offence. He believes this condition of bail might deter prostitutes from continuing their activities, even though he is not sure because he is aware that they shift their territory.

2.413 Strategies Used by the Prosecution and Defence

The judges consider that, on the whole, cases are well prepared and include all the evidence. One mentioned that the evidence was more substantial than when charges were laid under municipal by-law 333-3(a). In those days, Crown attorneys called only one police officer as a witness, whereas they now call two.

As for the defence, the judges have observed only two strategies: challenging that the law as unconstitutional, which was done in the days of 333-3(a), and challenging the use of an undercover policewoman.

2.414 Sentences

2.4141 Pre-sentencing Reports

The three judges agree to a pre-sentencing report, if the defence asks for it. That happens very rarely. One judge requires it when the accused is young and can be rehabilitated.

2.4142 Sentences for Offences Under s.195.1

All three use the same scale, namely $300 for a first offence, $500 for a second, $700 for a third and a higher fine and/or a prison sentence for subsequent offences. As a rule, they agree to what Crown attorneys request. Occasionally, however, they are more lenient. For example, one of the judges had unconditionally released an immigrant who had been in the country only two months and was unaware of our laws. In his homeland, prostitution was legal. Another had fined a prostitute $250 for her first offence, although the Crown attorney called for an exemplary fine of $500 because she had been arrested on Pine Avenue, a grade school.

The three judges confirm that fines were lower before the law: $75, $100 and $200 depending on the number of offences, and there were no prison sentences. One of them even observed that these fines could be considered more as a municipal tax or license fee than a punishment.

None of the judges claims to be influenced by the fact that an accused pleads not guilty. In their view, a citizen exercises his right by asking for a trial. Accordingly, there is no difference in sentences for those who plead guilty and those who are found guilty after a trial.

All three confirmed that fines are higher for street prostitution, which is a summary offence, than for other summary offences and some hybrid offences. One of the judges, for example, is stricter with a prostitute than a thief. He believes that she has committed more offences before arrest than the thief, who will be arrested every time the police can catch him. Such is not the case for a prostitute, for she is not arrested every time a police officer sees her communicating for purposes of prostitution.

Another judge gives lighter sentences for an offence under section 193.2 because it is not in a public place. He fines offenders $100 for a first offence, $200 for a second and $400 for a third. Another gives higher fines to prostitutes because prostitution is a commercial activity that brings in good money for the prostitute.

The three judges state that they give the same sentences to clients as to prostitutes, namely $300 for a first offence. None of them remembered having passed judgment on clients who were repeat offenders. But, if that happened, the sentence would be the same as for a prostitute who is a repeat offender. What affects the sentence is the number of offences, offender's role in a solicitation.

2.4143 Sentences for Offences Under 133-3(b)

The three judges have different fine scales for these offences. The first fines $100 but is more severe for the main offence under s.195.1 ($600 or $700 instead of $500). The second sets a $150 fine for the first offence and had not seen any repeat cases, while the third fines $300 for the first offence and $500 for the second.

2.4144 Factors Affecting Sentences

Among the three of them, the judges mentioned the following factors:

- now that communication for purposes of prostitution is a *Criminal Code* offence, it means a criminal record (one of the judges reported he studied the evidence more carefully and had unconditionally released an airplane pilot who would not have been able to obtain a visa had he had a criminal record);
- if a prostitute has been in the business a very long time, jail will not stop her. Fines are thus more appropriate;
- government authorities prefer judges to give as few jail sentences as possible and encourage them to levy fines;

- the fact that prostitution is a lucrative business leads to higher fines than for more serious offences;
- if a prostitute is young and shows she would like to get out of the business, she may be given a suspended sentence;
- if, on the contrary, a young prostitute commits a second offence soon after, she may be more readily sentenced to jail as a deterrence.

The judges also mentioned certain humanitarian considerations, such as having children, little education, a disadvantaged background or being an immigrant. Two judges observed that jail is no solution. It should only be used to protect society and prostitution does not endanger society.

2.42 Difficulties Encountered

The only difficulty encountered is overloading of dockets after enforcement blitzes that lead to the arrest of a greater number of repeat offenders. These are detained, and by law, must appear within 24 hours after arrest. On Monday, August 24, 1987, 75 people were scheduled to appear, and one judge, late in the day, postponed the appearances of several detainees until the next day. Since they had been arrested on the night of Saturday, August 22 to Sunday, August 23, lawyers for 15 of them filed a writ of habeas corpus in Superior Court. The judged ordered that the 15 accused be released immediately without appearing in court.

This overloading is liable to go on for a long time because of the number of cases put over pro forma or for trial after September 30, 1987 and after January 1, 1988.

2.43 Perceptions

2.431 Applicability of 195.1 Other Than on the Street

One judge believes that section 195.1 cannot be enforced in bars or hotels. In his view, these are not public places within the meaning of section 195.1. Anyone can enter a bar or hotel to have a drink, but these places would not allow the public to come in and wander around without a reason. Thus, they are not public places like the street where anyone can go.

In contrast, another judge believes section 195.1 also applies to bars and hotels because the public implicitly has access to them, something the law contemplates.

The third judge did not see fit to offer an opinion on this.

2.432 Aspects of Street Prostitution Requiring Legal Intervention

The judges mentioned the following aspects:

- the nuisance that deprives citizens of peaceful enjoyment of their surroundings (St. Catherine, Lafontaine Park) and prevents merchants from conducting business normally;
- associated crime and drug addiction;
- pimping;
- juvenile prostitution;
- the social imbalance created by income disparity. A large number of prostitutes earn more than some professionals but pay no tax;
- the exploitation of clients by prostitutes who use every means to obtain more money.

2.433 Merits of the Law

Two judges think the law has more advantages than disadvantages. One is of the opposite view. The advantages mentioned are:

- greater effectiveness than municipal by-law 333-3(a) because sentences are heavier;
- more restricted access to the business for young would-be prostitutes;
- deterrence of clients;

- reduced nuisance in some districts;
- less encumbered streets.

The disadvantages are:

- the fact that the law presents the legislator as a hypocrite. If prostitution is legal, it should be regulated so as to eliminate the problems associated with it. If the legislator believes prostitution should be prohibited, it should make it illegal not impracticable;
- movement of prostitutes to residential streets following imposition of area restrictions;
- prohibition against communicating for purposes of prostitution worded in a way that provokes legal challenges.

As to whether the goals are being met, all three judges believe that enforcement of C-49 does not deter prostitutes. Fining people who never have any money can only encourage them to commit the same offence. But the law has not been enforced long enough.

On the other hand, the judges consider that the law drives away clients who have been arrested and those reached by media coverage.

2.44 Recommendations

Since the legislator did not see fit to prohibit prostitution, the three judges favour regulation to run it as a business. This would allow associated nuisances to be controlled.

The first judge believes this approach would eliminate the present hypocrisy. He thinks that in 1987 most of society approves of the business of prostitution. Since it is unavoidable, it must be accepted as a fact of life. Parliament seems to agree, as it does not prohibit prostitution yet passes laws to prevent it. This judge favours regulating prostitution on condition that be located in a commercial district, in brothels, near hotels and conference centres, and on condition that it is not displayed in the street.

A second judge favours legalized brothels with medical control over STDs. In this way, prostitutes would pay taxes instead of receiving welfare benefits, and a certain number of STDs would be prevented.

The last judge thinks regulation is desirable because the present law is too weak. Parliament could then enact laws to control nuisances, other than prostitution, that disturb public peace.

3. Summary of Significant Judgments

Another research study, complementary to our own, is to analyze every significant judgment handed down in Canada since section 195.1 became law in depth. Accordingly, we shall confine ourselves to briefly describing the significant decisions handed down in Montreal.

3.1 Judgments Relating to the Technical Application of the Law

Three significant decisions were handed down by Municipal Court and two by Superior Court. The Quebec Court of Appeal also gave permission for a complainant to appeal against a Superior Court judgment. The case should be heard in fall 1988.

3.11 Municipal Court

On March 12, 1985, Massé J. of Municipal Court recognized the validity of circumstantial evidence, in other words that obtained by surveillance and tailing, in 25-1064 (*City of Montreal v Lise Thibault*). This judgment handed down while municipal by-law 333-3(a) was in force has never been challenged. Consequently, about 10% of arrests under the new section 195.1 have been made and are still being made in this way. According to Massé J., the circumstantial evidence adduced could only lead to the conclusion that sexual services had been offered for pay.

On November 3, 1986, Léger J. recognized that it was legal for a policewoman to pose as a prostitute. In 16-9967 (`R v Claude Lemay`), not only does he state that what constitutes the element of proof is the client's intent, and not whether the person who is approached is actually a prostitute. He adds that the law was passed for the very purpose of preventing clients from soliciting people who are not prostitutes.

In contrast, on November 27, 1986, Verreault J., in `R v Ruest`, acquitted a client because the Crown attorney had not been able to prove that the person whose services the client had sought was a prostitute as she was a policewoman working undercover. As we shall see, the city's lawyers appealed.

3.12 Superior Court

On April 28, 1987, Ducros J. reversed Madam Justice Verreault's decision in `R v Ruest`. He concluded, in 36-000827-868, that the trial judge had been wrong in demanding evidence that the person whose services the client had sought was really a prostitute. In his view, it is the client's view or intent that constitutes the element of proof. Accordingly, he convicted the client. The defence lawyer, however, appealed the case to the Quebec Court of Appeal.

On May 7, 1987, in 36-000072-879, `Joseph Trapid v R`, Boilard J. upheld a guilty verdict but stressed some important points. In this case, the arrest had been made following surveillance, tailing and apprehension in the act. The accused denied the facts, claiming that the woman was a friend he met occasionally to have sexual relations, but no money changed hands. He said he had lent her $20 and had taken her out for meals a few times. At the first trial, the judge admitted the court file, in which she had pleaded guilty to the same offence for which the client was charged, into evidence to show that the woman was a prostitute.

Boilard J. recognized the judge had made a mistake in allowing. This was an illegal procedure, for "The Crown can never use an accomplice's guilty plea as incriminating evidence against the accused". Despite this observation, he upheld the lower court's decision because he believed the verdict would have been the same, given the quality of the circumstantial evidence.

He felt the opinion of the client, who admitted his "friend" was a prostitute, was the key part of the evidence, rather than the showing that she really was a prostitute. He did not believe it necessary to prove the woman was a prostitute. Even if character evidence of reputation may be relevant – for example, police may claim in front of a judge during a trial that a woman is known to them as a prostitute – such testimony is not an element of proof in the prosecution's case.

This decision is important from several standpoints. First, it confirms the judgment of Ducros J. that it is not necessary to prove a person is a prostitute, maintaining that what matters is the client's intent. Second, it seems to assume that the client's statement is not an essential item of evidence for laying charges against him. Lastly, this judgment implies that mention of a price is not necessary if the evidence leads to no other conclusion than communication for purposes of prostitution.

3.2 Judgment Relating to the *Canadian Charter of Rights and Freedoms*

The first arrests under the new section 195.1 were made on January 14, 1986. On January 21 and February 8, Suzanne Cazès was arrested and charged under section 195.1(c) (cases 16-4955 and 16-5460). She appeared on March 13 and pleaded not guilty. The case was put over to April 14 pro forma. On that date, the case was put over to June 6, 1986 for trial. Meanwhile, on April 11 and May 6, her lawyer, Katherine Lippel, sent the Attorney General of Canada a notice of challenge of constitutionality in accordance with article 95 of the *Code of Civil Procedure*.

On June 6, 1986, the prosecution produced its evidence and the defence announced it was challenging the constitutionality of section 195.1. Massé J. then asked the Crown attorneys to produce notes and authorities on the subject. In the fall, the defence and the Court Crown attorneys agreed that the evidence in the Cazès file could be entered in the file of four other accused. In January 1987, the prosecution produced as exhibits volumes I and II of the minutes of and testimony before the Standing Committee on Justice and Solictor General on Bill C-49, as well as the *Debates of the House of Commons.* On April 7, 1987, the defence presented its reply, calling criminologist Marie-Andrée Bertrand as an expert witness. On July 24, the Municipal Court Crown attorney produced his notes and authorities, to which the defence replied on September 11, 1987. On September 30, Massé J. ruled section 195.1(1)(c) constitutional and thus valid. The five accused were found guilty. On October 22, the defence lawyers sent a notice of appeal to Superior Court.

The defence lawyers asserted that the law was unconstitutional on the following grounds:

1. Section 195.1(1)(c) of the *Criminal Code* conflicts with the freedom of expression guaranteed in section 2b of the *Canadian Charter of Rights and Freedoms* and, in particular, but without restricting the scope of the foregoing:
    - (a) section 195.1(1)(c) restricts every person's right of communication without reasonable limit and without justification;
    - (b) section 195.1(1)(c) is void for vagueness;
    - (c) section 195.1(1)(c) is void because it applies to such a broad range of behaviours that any citizen may feel potentially affected by the provision;

2. Section 195.1(1)(c) of the *Criminal Code* conflicts with section 2d of the *Canadian Charter of Rights and Freedoms* in that it unduly restricts every individual's freedom of association;

3. Section 195.1(1)(c) of the *Criminal Code* is contrary to section 7 of the *Canadian Charter of Rights and Freedoms* in that it allows individuals to be deprived of their freedom without knowing precisely what behaviour is prohibited;

4. Section 195.1(1)(c) of the *Criminal Code* is contrary to section 9 and section 15 of the *Canadian Charter of Rights and Freedoms* in that its terms are so vague that a decision to arrest someone under this provision is an arbitrary decision and the provision is discriminatory in its effects.

(Notice of challenge to constitutionality [art 95 CCP] by Katherine Lippel.)

Massé J. recognizes that section 195.1(1)(c) restricts the freedom of expression and association of people engaging in a legal activity, but he considers that this rule of law falls within reasonable limits that have been demonstrated to be warranted.

First, the objective of combatting the public nuisances of street prostitution is legitimate. Second, the Fraser Committee demonstrated that street prostitution leads to nuisances (unwanted soliciting, increased noise, traffic and bottlenecks, and so forth). Third, it is the gathering of several prostitutes and clients in some areas that causes nuisances. Fourth, in Montreal, away from residential areas, prostitution is not carried on discreetly and quietly.

Furthermore, he does not believe that the wording of paragraph (1)(c) is too vague and permits unjustified arrests. In his view, enforcement officers know that what is prohibited is not all communication relating to prostitution but that which consists of offering or obtaining sexual services for money in a public place. He states:

> The legal provision in question is not imprecise if interpreted as it should be, in other words, to prohibit communication between a male or female prostitute and a member of the public for the purpose of prostitution or alternatively by a member of the public and a person he believes to be a prostitute for the purpose of obtaining sexual services in a public place or a place open to public view (p. 12 of the judgment).

Consequently, he concludes that section 195.1(1)(c) is valid and applies to the behaviour of the accused.

The defence lawyers appealed this decision, and on March 17, 1988, Zerbizias J. of Superior Court dismissed the appeal, endorsing the decision of the Manitoba Court of Appeal handed down on September 23, 1987.

4. Analysis of Police Statistics and Police and Court Records

4.1 Statistics on Offences Relating to Adult Prostitution

Table 5, provided by the Co-ordination/Morality Section analyst, shows the number of prostitution-related offences by adults from January 1, 1983 to December 31, 1987 (juvenile prostitution statistics appear in Chapter V). Among the points noted is that in 1983, the MUCPD arrested 62 prostitutes under municipal by-law 5464. This by-law was not used after January 31, 1983, following a Supreme Court judgment that ruled a similar by-law in Calgary *ultra vires*. Arrests of prostitutes began again in 1983 under by-law 333-3(a). We also note that since the new section 195.1 came into force, there have been no arrests under by-law 333-3(a). Also, with the emphasis on street prostitution, arrests under ss. 193.1, 193.2 and 195 have greatly decreased since 1985.

TABLE 5

PROSTITUTION STATISTICS BY TYPE OF OFFENCE
1983 TO DECEMBER 31, 1987

Off. Year	193.1[1]	193.2[2]	195.[3]	MB[4]5364	MB333	195.1 Prost.	195.1 Client	Total
1983	92	17	32	62	204	n/a	na	407
1984	114	169	38	n/a[5]	853	n/a	n/a	1174
1985	240	108	327	n/a	1189	n/a	n/a	1864
1986	256	170	266	n/a	n/u[6]	1167	454	2313
1987	88	18	193	n/a	n/u	1406	929	2634

[1] Keeping a bawdy-house.
[2] Being found in a bawdy-house.
[3] Procuring.
[4] Municipal.
[5] Not applicable.
[6] Not used.

4.2 Solicitation Statistics

Table 6 shows solicitation and communication offences from January 1, 1983 to December 31, 1987.

TABLE 6

SOLICITATION AND COMMUNICATION STATISTICS
JANUARY 1, 1983 TO DECEMBER 31, 1987

Offence Year	MB5464	MB333-3(a)	195.1 F. Prost.	195.1 M. Prost.[1]	195.1 Client	Total
1983	62	204	n/a	n/a	n/a	266
1984	n/a	853	n/a	n/a	n/a	853
1985	n/a	1189	n/a	n/a	n/a	1189
1986	n/a	n/a	852	315	454	1621
1987	n/a	n/a	1028	378	929	2335

[1] Also includes transvestites/transsexuals.

From this we can see the police were busy as early as 1985, in other words before the law, for they acted on 1,189 offences. We also see that in 1986 the number of arrests of female prostitutes remained nearly unchanged, from 1,189 in 1985 to 1,167 in 1986. Additional energy was channelled into arresting clients (454 in 1986 compared to 0 in 1985). These data confirm the MUCPD's firm intention of eliminating street prostitution, as asserted in our 1984 study (Gemme *et al.*, 1984).

4.3 Communication Statistics

4.31 Number of Offences

Table 7 shows only offences under section 195.1 since the law took effect. In all, there were 3,956 arrests to December 31, 1987. We can also show that street prostitution and a fairer ratio of prostitutes to clients became priorities in 1987. With six fewer investigator positions, the number of prostitute arrests rose from 1,167 in 1986 to 1,406 in 1987. The number of client arrests rose from 454 in 1986 to 929 by December 31, 1987.

TABLE 7

COMMUNICATION STATISTICS, JANUARY 1, 1986 TO DECEMBER 31, 1987

Year	195.1 F. Prost.		195.1 M. Prost.		195.1 Client		Total	
	n	%	n	%	n	%	n	%
1986	852	52.5	315	19.4	454	28.1	1621	100
1987	1028	44.0	378	16.2	929	39.8	2335	100
Total	1880	47.5	693	17.5	1383	35.0	3956	100

4.32 Ratios

Table 8 shows the various arrest ratios of female to male prostitutes, clients to prostitutes and adult to juvenile prostitutes. We were unable to subdivide the client to prostitute ratio for heterosexual and homosexual clients because the compilations show only the number of offences under the heading "Prostitution obtaining (men)". According to our interviews, however, very few homosexual clients have been arrested. It should also be noted that the heading "Prostitution engaging in (men)" includes transvestites/transsexuals who offer their services as heterosexuals. The figures for homosexual prostitution are thus inflated. In our sample, transvestites/transsexuals make up 45% of the group "engaging in (men)".

TABLE 8

VARIOUS RATIOS FOR 1986 AND 1987[1]

Ratio Year	F. Prost. n:n	M. Prost. ratio	F.&M. Prost. n:n	Client ratio	Adult Prost. n:n	Juvenile Prost. ratio
1986	852:325	2.6:1	1167:454	2.6:1	1167:36	32.4:1
1987	1028:378	2.7:1	1406:929	1.5:1	1298:33	39.3:1
Total	1880:693	2.7:1	2573:1383	1.9:1	2465:69	35.7:1

[1] Until October 31, 1987.

We see from Table 8 that in 1987, police made an effort to bring the ratio of prostitutes to clients as close as possible to fifty-fifty. Other calculations indicate that client arrests increased by 104.6% in 1987 over 1986. And in November 1986, police carried out another "operation client" that led to the arrest of 111 clients in 10 days.

Juvenile prostitutes account for only 2.7% of all prostitute arrests (69 out of 2,534).

4.33 Number of Arrests Per Month Under Section 195.1

Table 9a shows the number of prostitutes and clients arrested every month since January 1986. We note the effort made in December 1986 to restore the ratio of prostitutes to clients. Of those arrested that month, 84.6% were clients and only 15.4% prostitutes. In November 1986, the ratio was 5.2 prostitutes for every client (1,122:215). After the December "operation client", the ratio was cut in half to 2.6:1 by December 31, 1986. The table also shows that the effort to maintain an acceptable ratio continued throughout 1987. In each month of that year, there were significantly more client arrests than in the corresponding month in 1986, except for December. Four "mini operation clients" also took place in 1987: 101 arrests in March, 114 in July, 100 in November and 109 in December. The table also reflects the effort to enforce the law against homosexual prostitutes made by undercover police in February 1986. More homosexual prostitutes were arrested in that month than in any single month since.

Table 9b shows the same data as Table 9a except that the percentages have been calculated vertically. This gives us a clearer picture of how police activity levels vary from month to month. In both 1986 and 1987, we see a decrease in activities for June because of the St-Jean-Baptiste holiday and the Montreal International Jazz Festival. Then, a number of officers concentrated more on surveillance than making arrests. Lastly, we see that the months of December 1986 and March, July, November and December 1987 were used to produce a better arrest ratio of prostitutes to clients.

TABLE 9a

MONTHLY BREAKDOWN OF ARRESTS UNDER S.195.1 BY INVOLVEMENT JANUARY 1986 TO DECEMBER 31, 1987 (N=3,956)

Involvement	Female Prostitute		Male Prostitute		Client		Total	
Month	n	%	n	%	n	%	n	%
1986								
January	52		19		16		87	100
February	79		75		29		183	100
March	62		25		26		113	100
April	85		39		12		136	100
May	84		23		18		125	100
June	33		14		28		75	100
July	78		24		11		113	100
August	79		32		12		123	100
September	74		6		15		95	100
October	73		18		21		112	100
November	124		25		25		174	100
December	29	10.2	15	5.2	241	84.6	285	100
1986 Total	852	52.6	315	19.4	454	28.0	1621	100
1987								
January	78		14		62		154	100
February	77		9		69		155	100
March	84	41.4	18	8.9	101	49.7	203	100
April	102		41		52		195	100
May	134		33		81		248	100
June	90		50		23		163	100
July	104		68		114		286	100
August	127		70		33		230	100
September	101		43		96		240	100
October	42		13		89		144	100
November	26	197.1	6	4.5	100	75.8	132	100
December	63	34.1	13	7.0	109	58.9	185	100
1987 Total	1028	44.0	378	16.2	929	39.8	2335	100
86-87 Total	1880	47.5	693	17.5	1383	35.0	3956	100

TABLE 9b

ARRESTS UNDER S.195.1 BY MONTHLY ACTIVITY RATE FOR EACH ROLE, JANUARY 1986 TO DECEMBER 31, 1987 (N=3,956)

Role	Female Prostitute	Male Prostitute	Client	Total	
Month	n	n	n	n	%
		1986			
January	52	19	16	87	5.4
February	79	75	29	183	11.3
March	62	25	26	113	7.0
April	85	39	12	136	8.4
May	84	23	18	125	7.7
June	33	14	28	75	4.6
July	78	24	11	113	7.0
August	79	32	12	123	7.6
September	74	6	15	95	5.8
October	73	18	21	112	6.9
November	124	25	25	174	10.7
December	29	15	241	285	17.6
1986 Total	852	315	454	1621	100.0
		1987			
January	78	14	62	154	6.6
February	77	9	69	155	6.6
March	84	18	101	203	8.7
April	102	41	52	195	8.3
May	134	33	81	148	10.6
June	90	50	23	163	7.0
July	104	68	114	286	12.2
August	127	70	33	230	9.9
September	101	43	96	240	10.3
October	42	13	89	144	6.2
November	26	6	100	132	5.7
December	63	13	109	185	7.9
1987 Total	1028	378	929	2335	100.0
86-87 Total	1880	693	1383	3956	100.0

4.4 Statistics on the Judicial Process for the 270 Cases in Our Sample

As mentioned earlier, 270 out of the 2,724 cases on the Court dockets at June 30, 1987 were selected systematically and at random to allow us to follow the progress of clients' and prostitutes' cases. The 27 juvenile prostitution cases will be covered in Chapter V.

4.41 Legal Status Before First Appearance

Tables 10 and 11 show whether offenders were detained, released on a promise to appear or summonsed before their first appearance. As can be seen from Table 10, nearly half of all prostitutes, but only four clients were held. We also see from Table 11 that homosexual prostitutes are detained less often than other prostitutes. This is because the group contains fewer repeat offenders. There is greater police enforcement exercised in the heterosexual sector. We also see that summonses are not used often.

Tables 12 and 13 give grounds for detention. We see that repeat offences are the main reasons for female prostitutes and, especially, transvestites/transsexuals.

TABLE 10

LEGAL STATUS BEFORE APPEARANCE, BY INVOLVEMENT OF ACCUSED (N=270)

Involvement	Prostitute		Client		Total	
Legal Status	n	%	n	%	n	%
Detained	85	48.6	4	4.2	89	33.0
Released on Promise	87	49.7	86	90.5	173	64.1
Released on Summons	3	1.7	5	5.3	8	2.9
Total	175	100.0	95	100.0	270	100.0

TABLE 11

LEGAL STATUS BEFORE APPEARANCE, BY TYPE OF PROSTITUTION (N=175)

Type	Heterosexual		T/T		Homosexual		Total	
Legal Status	n	%	n	%	n	%	n	%
Detained	71	50.7	8	50	6	31.6	85	48.6
Release on Promise	66	47.2	8	50	13	68.4	87	49.7
Release on Summons	3	2.1	0	0	0	0.0	3	1.7
Total	140	100.0	16	100	19	100.0	175	100.0

TABLE 12

REASON FOR PRE-APPEARANCE DETENTION, BY INVOLVEMENT (N=89)

Involvement	Prostitute		Client		Total	
Reason for Detention	n	%	n	%	n	%
Recidivism	53	62.3	1	25	54	60.8
False Identity or Address	1	1.2	0	0	1	1.1
Remote Residence	11	12.9	3	75	14	15.7
Address Unknown	10	11.8	0	0	10	11.2
Reason Unknown	10	11.8	0	0	10	11.0
Total	85	100.0	4	100	89	100.0

TABLE 13

REASON FOR PRE-APPEARANCE DETENTION, BY TYPE OF PROSTITUTION (N=85)

Type	Heterosexual		T/T		Homosexual		Total	
Reason for Detention	n	%	n	%	n	%	n	%
Recidivism	44	62.0	7	87.5	2	33.3	53	62.3
False Identity or Address	1	1.4	0	0.0	0	0.0	1	1.2
Remote Residence	11	15.5	0	0.0	0	0.0	11	12.9
Address Unknown	9	12.7	1	12.5	0	0.0	10	11.8
Reason Unknown	6	8.4	0	0.0	4	66.7	10	11.8
Total	71	100.0	8	100.0	6	100.0	85	100.0

4.42 Bail Conditions at First Appearance

Tables 14 and 15 show conditions of bail for offenders who appeared and pleaded not guilty, either at their first scheduled appearance or when a bench warrant was served. In all, 83 prostitutes (70 heterosexuals, 4 transvestites/transsexuals and 9 homosexuals) and 24 clients were given such conditions. All those who pleaded guilty at their first appearance were sentenced immediately. This group comprised 58 heterosexual, 11 transvestite/transsexual and 6 homosexual prostitutes and 66 clients. One client pleaded not guilty at his first appearance and was immediately acquitted by the judge because the prosecution did not have any evidence to submit and the charge was withdrawn for one prostitute. Those who failed to report for their first appearance did not have any conditions set. This group included 10 heterosexual, one transvestite/transsexual and 4 homosexual prostitutes and 4 clients. One detention request for a prostitute was granted.

TABLE 14

INTERIM RELEASE CONDITIONS AT FIRST APPEARANCE, BY INVOLVEMENT OF ACCUSED (N=107)

Involvement	Prostitute		Client		Total	
Conditions	n	%	n	%	n	%
Recognizance	57	68.7	22	91.6	79	73.8
Recognizance + Bail	1	1.2	1	4.2	2	1.9
Recognizance + Bail + Remaining in Same Place	1	1.2	0	0.0	1	0.9
Notifying Change of Address	2	2.4	0	0.0	2	1.9
Area Restriction	21	25.3	1	4.2	22	20.6
Area + Not Leaving Province	1	1.2	0	0.0	1	0.9
Total	83	100.0	24	100.0	107	100.0

TABLE 15

INTERIM RELEASE CONDITIONS AT FIRST APPEARANCE, BY TYPE OF PROSTITUTION (N=83)

Type	Heterosexual		T/T		Homosexual		Total	
Conditions	n	%	n	%	n	%	n	%
Recognizance	48	68.6	3	75.0	6	66.7	57	68.7
Recognizance + Bail	1	1.4[1]	0	0.0	0	0.0	1	1.2
Recognizance + Bail + Remaining at Same Address	1	1.4	0	0.0	0	0.0	1	1.2
Notifying Change of Address	1	1.4	0	0.0	1	11.1	2	2.5
Area Restriction	18	25.7	1	25.0	2	22.2	21	25.3
Area + Not Leaving Province	1	1.4	0	0.0	0	0.0	1	1.2
Total	70	100.0	4	100.0	9	100.0	83	100.0

[1] In reality 1.425, hence the total of 100.0.

4.43 Number of Appearances Per Case

In order to determine what enforcing the new section 195.1 meant in terms of number of appearances, we counted each scheduled appearance for each case. This includes appearances scheduled for cases to be put over pro forma or tried, and scheduled appearances at which the accused failed to appear. Table 16 gives this information for prostitutes and clients, and Table 17 breaks it down by type of prostitution. We see that prostitutes are scheduled to appear nearly twice as often as clients (averages of 2.7 and 1.5 times), and that a vast majority of client cases require only one appearance (72.6%).

TABLE 16

NUMBER OF APPEARANCES SCHEDULED, BY INVOLVEMENT (N=270)

Involvement	Prostitute		Client		Total	
Number of Appearances	n	%	n	%	n	App.[1]
1	65	37.2	69	72.6	134	134
2	38	21.7	15	15.8	53	106
3	23	13.1	5	5.3	28	84
4	20	11.4	2	2.1	22	88
5	13	7.4	2	2.1	15	75
6	5	2.9	0	0.0	5	30
7	6	3.4	1	1.05	7	49
8	3	1.7	1	1.05	4	32
9	0	0.0	0	0.0	0	0
10	0	0.0	0	0.0	0	0
11	0	0.0	0	0.0	0	0
12	1	0.6	0	0.0	1	12
13	0	0.0	0	0.0	0	0
14	1	0.6	0	0.0	1	14
Total Cases	175	100.0	95	100.0	270	
Total Appearances	277		147			624
Average	2.7		1.5			2.3

[1] Number of appearances.

Other compilations show that 91 out of 95 clients (95.8%) reported for their first scheduled appearance, and 65 of them (71.4%) pleaded guilty and were sentenced immediately. Of the 175 prostitutes, 144 (82.2%) reported the first time, 50 of these (34.7%) pleaded guilty and 48 (33.3%) were sentenced. Two prostitutes had their sentences delayed pending a pre-sentencing report.

TABLE 17

NUMBER OF APPEARANCES SCHEDULED BY TYPE OF PROSTITUTION (N=175)

Type	Heterosexual		T/T		Homosexual		Total	
Number of Appearances	**n**	**%**	**n**	**%**	**n**	**%**	**n**	**App.[1]**
1	48	34.3	9	56.3	8	42.1	65	65
2	31	22.1	3	8.7	4	21.0	38	76
3	20	14.3	1	6.25	2	10.5	23	69
4	17	12.1	1	6.25	2	10.5	20	80
5	11	7.9	1	6.25	1	5.3	13	65
6	5	3.6	0	0.0	0	0.0	5	30
7	6	4.3	0	0.0	0	0.0	6	42
8	2	1.4	0	0.0	1	5.3	3	24
9	0	0.0	0	0.0	0	0.0	0	0
10	0	0.0	0	0.0	0	0.0	0	0
11	0	0.0	0	0.0	0	0.0	0	0
12	0	0.0	0	0.0	1	5.3	1	12
13	0	0.0	0	0.0	0	0.0	0	0
14	0	0.0	1	6.25	0	0.0	1	14
Total Cases	140	100.0	16	100.0	19	100.0	175	
Total Appearances	381		41		55			477
Average	2.7		2.1		2.9			

[1] Number of appearances.

4.44 Types of Pleas

4.441 Original Plea

Tables 18 and 19 present the first plea recorded, either at the first scheduled appearance or at the appearance following service of a bench warrant for failure to appear. This second scenario happened to 13 female, 2 transvestite/transsexual and 1 homosexual prostitutes and 1 client. A large majority of clients (72.5%) pleaded guilty, but only 47.2% of prostitutes did so.

TABLE 18

ORIGINAL PLEA AT FIRST ACTUAL APPEARANCE BY INVOLVEMENT OF ACCUSED (N=250)

Involvement	**Prostitute**		**Client**		**Total**	
Original plea	**n**	**%**	**n**	**%**	**n**	**%**
Guilty	75	47.2	66	72.5	141	56.4
Not Guilty	84[2]	52.8	25[3]	27.5	109	43.6
Total Pleas[1]	159	100.0	91	100.0	250	100.0

[1] The difference between total pleas (250) and total cases (270) is due to the 19 defaults and one case withdrawn after charges were laid.

[2] The 83 in table 14 plus the one detained after first appearance.

[3] The 24 in Table 14 plus the one for whom no evidence was submiteed.

TABLE 19

ORIGINAL PLEA AT FIRST ACTUAL APPEARANCE BY TYPE OF ACCUSED (N=250)

Type	**Heterosexual**		**T/T**		**Homosexual**		**Total**	
Original Plea	**n**	**%**	**n**	**%**	**n**	**%**	**n**	**%**
Guilty	58	45.0	11	73.3	6	40.0	75	47.1
Not Guilty	71	55.0	4	26.7	9	60.0	84	52.9
All Pleas[1]	129	100.0	15	100.0	15	100.0	159	100.0

[1] The difference between total pleas (159) and total cases (175) is due to the 15 defaults and one case withdrawn after charges had been laid.

4.442 Final Plea

During the judicial process, 41 accused changed their original plea. Among them were 28 female, 1 transvestite/transsexual, 3 male prostitutes and 9 clients who changed their original plea of not guilty to guilty.

Tables 20 and 21 show final pleas as they stood at the time our information was gathered. The final guilty pleas include original pleas (which are also final pleas, because sentence is passed immediately) and the changed pleas mentioned earlier. Pleas of not guilty include only those that went to trial. We did not include not-guilty pleas that were put over pro forma or for trial at a later date, after the Massé decision on September 30, 1987.

This is because such pleas are not necessarily final. An accused could change his plea on the basis of the Massé judgment. In our sample, 59 not-guilty pleas fall into this category (43 female, 2 transvestite/transsexual and 4 male prostitutes and 10 clients). In fact, no case involving a prostitute reached the trial stage.

When we compare the behaviour of female prostitutes with that of clients, we realize that evidence for these two groups is solid as the percentage of not-guilty pleas is no higher than 8.6%. This is especially true of prostitutes. Clearly, apart from arguing that the law is unconstitutional, prostitutes and their lawyers have not yet found a loophole or sought a flaw in its actual enforcement. This is no doubt because the majority of arrests (about 90%) are made following undercover police work.

Since the number of not-guilty pleas is too small, we are unable to break them down in a more sophisticated way according to the control variables of repeat offences and detention.

TABLE 20

FINAL PLEA BY INVOLVEMENT OF ACCUSED (N=191)

Involvement	Prostitute (m/f)		Client		Total	
Final plea	n	%	n	%	n	%
Guilty	107	97.3	74	91.4	181	94.8
Not guilty	3	2.7	7	8.6	10	5.2
Total pleas[1]	110	100.0	81	100.0	191	100.0

[1]The difference between total pleas (191) and total cases (270) is due to 19 defaults, 59 cases put over pro forma or for trial and one case withdrawn.

TABLE 21

FINAL PLEA BY TYPE OF PROSTITUTION (N=110)

Type	Heterosexual		T/T		Homosexual		Total	
Final plea	n	%	n	%	n	%	n	%
Guilty	86	100.0	12	92.3	9	81.8	107	97.3
Not guilty	0	0.0	1	7.7	2	18.2	3	2.7
Total pleas[1]	86	100.0	13	100.0	11	100.0	110	100.0

[1]The difference between total pleas (110) and total cases (175) is due to 15 defaults, 45 cases put over pro forma or for trial and one case withdrawn.

4.45 Pre-sentencing Reports

The 175 prostitutes' files show that six pre-sentencing reports and four referrals for counselling were required.

4.46 Verdicts

In all, ten cases reached trial. Tables 22 and 23 show the verdicts reached. We see that although 28.6% of clients were found not guilty, no such verdict was reached for any prostitute. We also see that type of prostitution does not affect verdicts.

Again, the numbers are too small to be broken down by the control variables of repeat offences or detention.

TABLE 22

VERDICTS BY ACCUSEDS' INVOLVEMENT (N=10)

Role	Prostitute		Client		Total	
Verdict	n	%	n	%	n	%
Guilty	3	100.0	5	71.4	8	80.0
Not Guilty	0	0.0	2	28.6	2	20.0
Total Trials	3	100.0	7	100.0	10	100.0

TABLE 23

VERDICTS, BY TYPE OF PROSTITUTION (N=3)

Type	Heterosexual		T/T		Homosexual		Total	
Judgment	n	%	n	%	n	%	n	%
Guilty	0	0.0	1	100.0	2	100.0	3	100.0
Not guilty	0	0.0	0	0.0	0	0.0	0	0.0
Total	0	0.0	1	100.0	2	100.0	3	100.0

4.47 Type of Sentences

Tables 24 and 25 show sentences for all guilty parties who either pleaded guilty or were convicted by a judge in one of the ten trials. As we can see, the most common sentence is a fine. No client was sentenced to jail, but 21% of prostitutes were.

We also wanted to control type of sentence on the basis of repeat offences detention for prostitutes alone. (Only one client was a repeat offender, only seven pleaded not guilty and all but one were fined.) Tables 26 and 27 show the results. We see that recidivism is the variable most closely associated with type of sentence. The fact that one has been held does not necessarily reflect a repeat offence. As we saw in

Table 12, detention may be due to other factors, such as living too far away or having an unknown address. Logically, these situations should not affect a sentence. Furthermore, being detained because of a repeat offence may imply only one previous offence, something the judge will learn from the liaison officer's testimony. Thus, the type of sentence will not be the same for an accused who has been detained after only one previous offence as for an accused detained after six or seven previous offences. In theory, a prostitute who has committed ten offences could be arrested and released on promise to appear for various reasons (such as human error or a lost file). She would still be sentenced to jail following the liaison officer's testimony, without having been held for her latest offence.

The fact that the final plea has no influence confirms the judges' claim that everyone has a right to plead not guilty and insist on a trial. Accused persons found guilty after a trial did not, therefore, receive harsher sentences than those who pleaded guilty.

TABLE 24

TYPE OF SENTENCES, BY INVOLVEMENT (N=189)[1]

Involvement	**Prostitute**		**Client**		**Total**	
Sentence	**n**	**%**	**n**	**%**	**n**	**%**
Fine	79	71.8	78	98.7	157	83.1
Jail	23	21.0	0	0.0	23	12.2
Fine + Probation	3	2.7	0	0.0	3	1.6
Prison + Probation	2	1.8	0	0.0	2	1.05
Probation	1	0.9	1	1.3	2	1.05
Sentence Postponed	2	1.8	0	0.0	2	1.05
Total	110	100.0	79	100.0	189[2]	100.0[3]

[1] The difference between the number of offenders sentenced (189) and the 191 final pleas (Table 20) is due to the fact that two clients were acquitted.

[2] Sentences postponed pending a pre-sentencing report.

[3] 100.5 rounded to 100.0.

TABLE 25

TYPE OF SENTENCES, BY TYPE OF PROSTITUTION (N=110)

Type	Heterosexual		T/T		Homosexual		Total	
Sentence	n	%	n	%	n	%	n	%
Fine	63	73.3	8	61.5	8	72.7	79	71.8
Prison	16	18.6	5	38.5	2	18.1	23	
21.0Fine + Probation	2	2.3	0	0.0	1	9.1	3	2.7
Prison + Probation	2	2.3	0	0.0	0	0.0	2	1.8
Probation	1	1.2	0	0.0	0	0.0	1	0.9
Sentence Postponed[1]	2	2.3	0	0.0	0	0.0	2	1.8
Total	86	100.0	13	100.0	11	100.0	110	100.0

[1] Sentences postponed pending a pre-sentencing report.

TABLE 26

TYPE OF SENTENCES FOR PROSTITUTES, BY RECIDIVISM (N=86)

Status	Recidivist		Non-recidivist		Total	
Sentence	n	%	n	%	n	%
Fine	27	58.7	36	90.0	63	73.3
Jail	14	30.4	2[2]	5.0	16	18.6
Fine + Probation	1	2.2	1	2.5	2	2.3
Jail + Probation	2	4.3	0	0.0	2	2.3
Probation	1	2.2	0	0.0	1	1.2
Sentence Postponed[1]	1	2.2	1	2.5	2	2.3
Total	46	100.0	40	100.0	86	100.0

[1] Sentences postponed pending a pre-sentencing report.

[2] In one case there were also charges under 118 (a), and in the other, the offender was an American of no known address.

TABLE 27

TYPE OF SENTENCES FOR PROSTITUTES, BY DETENTION (N=86)

Detention	**Detained**		**Not Detained**		**Total**	
Sentence	**n**	**%**	**n**	**%**	**n**	**%**
Fine	39	72.2	24	75.0	63	73.3
Jail	11	20.4	5	15.6	16	18.6
Fine + probation	2	3.7	0	0.0	2	2.3
Jail + probation	1	1.85	1	3.1	2	2.3
Probation	0	0.0	1	3.1	1	1.2
Sentence postponed[1]	1	1.85	1	3.1	2	2.3
Total	54	100.0	32	100.0[2]	86	100.0

[1] Sentences postponed pending a pre-sentencing report.

[2] 99.9 rounded to 100.0.

4.48 Details of Sentences

4.481 Fines

Tables 28 to 32 show fines broken down according to involvement and situations. Table 28 contrasts fines for prostitutes with those for clients, showing that prostitutes are given higher fines than clients. The difference between the two averages is $91.15 ($378.65 ¯ $287.50), or 31.6%. When we break fines down by repeat offences however, Table 29 shows us that the difference is only $13.56 ($301.06 ¯ $287.50), or 4.7%. This insignificant difference reflects an egalitarian application of the judicial process as regards fines. Indeed, the median is $300 for both groups. Only one client in our sample was a repeat offender, and since his case was put over, no sentence has been given him. Two clients were fined $500 when the law first took effect and there was not yet a consensus on fines.

Table 30 shows that among prostitutes, homosexuals received lower fines on average ($361.11) than other types ($380 and $387.50). This difference is due to the lower percentage (21.1%) of repeat offenders in this group (Table 58) than in the other two groups (52.1% and 50%).

For prostitutes, we also checked the amount of fines against repeat offences and detention (tables 30 and 31). We see that the average fine is much higher for repeat offenders ($482.85 compared to $301.06) than we might expect.

TABLE 28

FINES BY OFFENDER'S INVOLVEMENT (N=160)[1]

Involvement Fine $		Prostitute n	 %	Client n	 %	Total n	Total $
1	50	1	1.2	0	0.0	1	50
51	100	0	0.0	1[2]	1.3	1	75
101	150	2	2.4	0	0.0	2	300
151	200	4	4.9	5	6.4	9	1,800
201	250	8	9.8	18	23.1	26	6,500
251	300	34	41.5	48	61.5	82	24,600
301	350	4	4.9	3	3.8	7	2,450
351	400	9	11.0	1	1.3	10	4,000
401	450	1	1.2	0	0.0	1	450
451	500	10	12.2	2	2.6	12	6,000
501	500	0	0.0	0	0.0	0	0
551	600	3	3.7	0	0.0	3	1,800
601	650	0	0.0	0	0.0	0	0
651	700	1	1.2	0	0.0	1	700
701	750	1	1.2	0	0.0	1	750
751	800	1	1.2	0	0.0	1	800
801	900	0	0.0	0	0.0	0	0
901	1000	2	2.4	0	0.0	2	2,000
1101	1100	0	0.0	0	0.0	0	0
1101	1200	1	1.2	0	0.0	1	1,200
Total Offenders		82	100.0	78	100.0	160	
Total Fines		$31,050		$22,425			$53,475
Average		$378.65		$287.50			$334.21
Median		$350.00		$300.00			$300.00

[1] The difference between the number of offenders sentenced to fines (160) and the number of offenders sentenced (189) (Table 24) is due to 25 prison sentences, one probation sentence and 2 postponed sentences for prostitutes and one probation sentence for a client.

[2] The fine was $75.

TABLE 29

FINES FOR PROSTITUTE AND CLIENT FIRST OFFENDERS (N=125)

Involvement Fine $		Prostitutes		Clients		Total
		n	%	n	%	n
1	50	0	0.0	0	0.0	0
51	100	0	0.0	1	1.3	1
101	150	2	4.25	0	0.0	2
151	200	2	4.25	5	6.4	7
201	250	7	14.9	18	23.1	25
251	300	27	57.4	48	61.5	75
301	350	4	8.5	3	3.8	7
351	400	3	6.4	1	1.3	4
401	450	0	0.0	0	0.0	0
451	500	2	4.25	2	2.6	4
Total Offenders		47	100.0[1]	78	100.0	125
Total Fines		$14,750		$22,425		
Average		$301.06		$287.50		
Median		$300.00		$300.00		

[1] 99.95 rounded to 100.

TABLE 30

FINES FOR RECIDIVISTS AND NON-RECIDIVISTS (N=82)

Type Fine $		Heterosexual		T/T		Homosexual		Total	Total
		n	%	n	%	n	%	n	$
								82	10,200
1	50	1	1.5	0	0.0	0	0.0	1	50
51	100	0	0.0	0	0.0	0	0.0	0	0
101	150	2	3.1	0	0.0	0	0.0	2	300
151	200	4	6.2	0	0.0	0	0.0	4	800
201	250	7	10.8	0	0.0	1	11.1	8	2,000
251	300	26	40.0	3	37.5	5	55.6	34	10,200
301	350	4	6.2	0	0.0	0	0.0	4	1,400
351	400	5	7.7	3	37.5	1	11.1	9	3,600
401	450	1	1.5	0	0.0	0	0.0	1	450
451	500	7	10.8	2	25.0	1[1]	11.1	10	5,000
501	550	0	0.0	0	0.0	0	0.0	0	0
551	600	2	3.1	0	0.0	1	11.1	3	1,800
601	650	0	0.0	0	0.0	0	0.0	0	0
651	700	1	1.5	0	0.0	0	0.0	1	700
701	750	1	1.5	0	0.0	0	0.0	1	750
751	800	1	1.5	0	0.0	0	0.0	1	800
801	900	0	0.0	0	0.0	0	0.0	0	0
901	1000	2	3.1	0	0.0	0	0.0	2	2,000
1001	1100	0	0.0	0	0.0	0	0.0	0	0
1101	1200	1	1.5	0	0.0	0	0.0	1	1,200
Total Offenders		65	100.0	8	100.0	9	100.0	82	
Total Fines		$24,700		$3,100		$3,250		$31,050	
Average		$380		$387.50		$361.11		$378.65	
Median		$350		$400.00		$300.00		$350.00	

[1] This fine was given together with probation.

TABLE 31

FINES BY TYPE OF PROSTITUTION OF OFFENDERS (N=82)

Type		**Recidivist**		**Non-recidivist**		**Total**	**Total**
Fine $		**n**	**%**	**n**	**%**	**n**	**$**
1	50	1	2.85	0	0.0	1	50
51	100	0	0.0	0	0.0	0	0
101	150	0	0.0	2	4.25	2	300
151	200	2	5.7	2	4.25	4	800
201	250	1	2.85	7	14.9	8	2,000
251	300	7	20.0	27	57.4	34	10,200
301	350	0	0.0	4	8.5	4	1,400
351	400	6	17.1	3	6.4	9	3,600
401	450	1	2.85	0	0.0	1	450
451	500	8	22.9	2	4.25	10	5,000
501	550	0	0.0	0	0.0	0	0
551	600	3	8.6	0	0.0	3	1,800
601	650	0	0.0	0	0.0	0	0
651	700	1	2.85	0	0.0	1	700
701	750	1	2.85	0	0.0	1	750
751	800	1	2.85	0	0.0	1	800
801	900	0	0.0	0	0.0	0	0
901	1000	2	5.7	0	0.0	2	2,000
1001	1100	0	0.0	0	0.0	0	0
1101	1200	1	2.85	0	0.0	1	1,200
Total Offenders		35	100.0[1]	47		100.0[1]	82
Total Fines		$16,900		$14,150			$31,050.00
Average		$482.85		$301.06			$378.65
Median		$300.00		$300.00			

[1] 99.95 rounded to 100.

TABLE 32

FINES FOR DETAINEES AND NON-DETAINEES (N=82)

Detention		Detained		Not detained		Total	Total
Fine $		n	%	n	%	n	$
1	50	1	2.0	0	0.0	1	50
51	100	0	0.0	0	0.0	0	0
101	150	1	2.0	1	3.1	2	300
151	200	2	4.0	2	6.3	4	800
201	250	3	6.0	5	15.6	8	2,000
251	300	20	40.0	14	43.7	34	10,200
301	350	2	4.0	2	6.3	4	1,400
351	400	5	10.0	4	12.6	9	3,600
401	450	1	2.0	0	0.0	1	450
451	500	7	14.0	3	9.3	10	5,000
501	550	0	0.0	0	0.0	0	0
551	600	3	6.0	0	0.0	3	1,800
601	650	0	0.0	0	0.0	0	0
651	700	1	2.0	0	0.0	1	700
701	750	0	0.0	1	3.1	1	750
751	800	1	2.0	0	0.0	1	800
801	900	0	0.0	0	0.0	0	0
901	1000	2	4.0	0	0.0	2	2,000
1001	1100	0	0.0	0	0.0	0	0
1101	1200	1	2.0	0	0.0	1	1,200
Total Offenders		50	100.0[1]	32	100.0[1]	82	
Total Fines		$20,500		$10,550		$31,050	
Average		$410		329.68			
Median		$300		300			

[1] 99.9 rounded to 100.0.

4.482 Prison Sentences

No client received a jail sentence. Table 33 shows the number of days in jail to which prostitutes were sentenced. Jail sentences accompanied by probation were included in our calculations.

We see that women prostitutes received more days in jail than others (average of 35.3) and that homosexuals had lighter sentences (average of 10.5 days). This is because police take less action against homosexuals, and hence fewer habitual offenders are arrested. The longest jail sentence is 90 days. This sentence was handed down for three offences dealt with at the same time.

We also checked number of days in jail against repeat offences and detention. Tables 34 and 35 confirm our earlier observation, that repeat offences is the most important variable in predicting jail sentences. A repeater will get a jail sentence nearly five times as long as a first offender (33.7 days compared to 7).

In contrast, no such link emerges with the variable of detention. Not only does being detained not lead to a longer sentence: the contrary is actually the case. Prostitutes in our sample, who were not detained, received longer jail sentences on average than detainees (39.3 days compared to 28.5).

This difference is hard to explain. Three of the cases in which prostitutes had not been detained related to the same person, whose record was unusually long (five offences under 193.1, two offences under 133.3(b) and six offences under 333-3(a)). In another case, a sentence of 60 days was given after five previous offences. We were unable to find out why police released these people on a promise to appear. The records contain information on reasons for detention, but naturally not on reasons for releasing someone on promise to appear. The police officers we questioned could not enlighten us.

TABLE 33

DAYS IN PRISON BY TYPE OF PROSTITUTION (N=25)

Type	**Heterosexual**		**T/T**		**Homosexual**		**Total**	
Prison	**n**	**%**	**n**	**%**	**n**	**%**	**n**	**days**
1- 7	4	22.2	0	0.0	1	50.0	5	33
8-14	2	11.1	3	60.0	1	50.0	6	84
15-31	5	27.8	1	20.0	0	0.0	6	162
32-60	6[1],[2]	33.3	1[3]	20.0	0	0.0	7	420
61-90	1[4]	5.6	0	0.0	0	0.0	1	90
Total Offenders	18	100.0	5	100.0	2	100.0	25	
Total Days in Prison	636		132		21			789
Average	35.3 days		26.4 days		10.5 days			31.6
Median	31.0 days		15.0 days		7.0 days			30.0

[1] Two 60-day sentences were served on 30 weekends (these were concurrent sentences for two offences committed by the same person).

[2] One 60-day sentence for six cases processed simultaneously.

[3] The accused chose 60 days rather than pay a fine of $700 ($600 for s.195.1 and $100 for an offence under s.118).

[4] For three offences under s.195.1 processed simultaneously.

TABLE 34

DAYS IN PRISON FOR RECIDIVISTS AND NON-RECIDIVISTS (N=25)

Status	Recidivist		Non-recidivist		Total	Total
Prison	n	%	n	%	n	Days
1- 7	3	13.0	2	100.0	5	33
8-14	6	26.1	0	0.0	6	84
15-31	6	26.1	0	0.0	6	162
32-60	7	30.4	0	0.0	7	420
61-90	1	4.4	0	0.0	1	90
Total Offenders	23	100.0	2	100.0	25	
Total Days in Prison	775		14			789
Average	33.7 days		7. days			31.6
Median	31. days		7. days			

TABLE 35

DAYS IN JAIL FOR DETAINEES AND NON-DETAINEES (N=25)

Detention	Detained		Not Detained		Total	Total
Jail	n	%	n	%	n	days
1- 7	5	27.8	0	0.0	5	33
8-14	5	27.8	1	14.3	6	84
15-31	3	16.6	3	42.85	6	162
32-60	4	22.23	3	42.85	7	420
61-90	1	5.6	0	0.0	1	90
Total Offenders	18	100.0	7	100.0	25	
Total Days In Prison	514		275			789
Average	28.5 days		39.3 days			31.6
Median	14. days		31. days			31.0

4.49 Sentences for Multiple Offences and Associated Offences

Among our sentences, four were given for multiple offences. One 90-day jail term was given for three offences under s.195.1, a 60-day term was given for three offences, two concurrent 60-day sentences were given for two offences under s.195.1 and one three-week sentence was given for one offence under 195.1 and one obstruction offence (118(c)).

As for offences associated with s.195.1, we noted four: two obstructions (118(c), $100 fine and three weeks to be served concurrently with the sentence for s.195.1) and two breaches of conditions (133-3(b): $300 and $100).

Summary of Statistical Analysis

In 1987, 2,325 arrests were made under section 195.1. Of these, 40% were client arrests, for a ratio of 1.5 prostitutes to each client. To achieve this ratio, police conducted client arrest operations several times over the year. These operations might last several days and lead to the arrest of over 100 clients.

Among the 270 cases in our sample, a high proportion of prostitutes (48.6%) were detained, because of repeat offences, before their first appearance. Only four clients (4.2%) were held. The majority were released on their own recognizance. The average number of appearances per case was 2.3, higher among prostitutes (2.7) than clients (1.5). Following their first appearance, 25% of prostitutes were released conditionally under an area restriction.

The majority of clients originally pleaded guilty (72.5%), while the majority of prostitutes pleaded not guilty (52.8%) with a view to challenging the law's constitutionality. A large percentage of these, however, changed their plea during the proceedings to avoid an area restriction.

If we leave aside the 75 cases (27.8%) in which the accused failed to appear or the case was put over pro forma, nearly 95% of prostitutes and clients pleaded guilty. Of the 5% who reached the trial stage, the vast majority (8/10) were convicted.

Over 80% of the accused were fined (71.8% of prostitutes and 98.7% of clients), with a median of $300 for a first offence. The percentage of jail sentences is 12.2%, and the average number of days is 31.6.

5. Comparison with the 1984 Study

5.1 Legal Controls

In 1984, section 195.1 was not used, following the *Hutt* decision. Prostitution was controlled exclusively through municipal by-law 333-3(a), which prohibits selling services without a license in public places. In 1987, police used section 195.1 exclusively.

5.2 Police Enforcement

Police enforcement in 1984 may be summarized in the following terms:

- police felt they had no clear mandate. They went so far as to wonder whether politicians would prefer to see them not take action. They based the action that they did take on citizens' complaints and their own motivation;

- the priorities were prostitution by minors, procurers, keepers of bawdy-houses and street prostitution in that order. However, larger numbers of street prostitutes were arrested because by-law 333-3(a) was easy to enforce. The necessary evidence was easier to gather than for their other enforcement priorities;

- self-motivation to combat street prostitutes was stimulated by knowledge of the environment's potential to breed crime;

- by-law 333-3(a) did not allow clients to be arrested, for it was aimed only at prostitutes. Arrests were made following undercover police work or surveillance and tailing;

- the by-law was hard to enforce because prostitutes got around it by not offering services, waiting to be solicited by the client;

- police could not arrest a prostitute and her client in a car which was considered a private place;
- what police sought was evidence that sexual services had been offered in a public place;
- in 1983, 339 street prostitutes were arrested under municipal by-laws 5464 and 333-2(b) or 3(a);
- less than 1% of charges proposed were rejected by Crown attorneys;
- because a municipal by-law was used, those arrested could not be detained before they appeared.

In 1987, police had a clear mandate from political authorities, and street prostitution had become the second priority, after juvenile prostitution. The principal motivation still was to reduce the crime rate associated with prostitution. Police did everything in their power to arrest as many clients as prostitutes. As of December 31, 1987, clients accounted for 40% of arrests. Police methods had not changed, but most arrests were made following undercover operations in which police sought evidence of communication by the prostitute or client for purposes of prostitution. Police enforcement led to 2,325 arrests for communication. Less than 1% of charges were rejected by the Crown attorney. Police detained repeat offenders.

5.3 Court Enforcement

In 1983-84, legal arguments rarely related to the facts, but rather to questions of law. Defence lawyers challenged the fact that the prostitute was loitering within the meaning of by-law 333-2(b) because, far from wandering without a purpose, she was looking for a client. As for by-law 333-3(a), the defence maintained it was illogical to prohibit the selling of services without a license, given that no agency was authorized to issue such licenses. As for by-law 5464, defence lawyers claimed that the municipality had no jurisdiction to exercise enforcement over acts governed by the *Criminal Code*.

A large majority of accused women, however, acknowledged their guilt and were simply fined; $75 for a first offence, $150 for a second offence and $200 to $300 for subsequent offences.

The vast majority of accused women who pleaded not guilty were found guilty after a trial. In the 417 cases completed in 1982 (under by-laws 3333-2(b and 5464), 351 (84.2%) accused persons acknowledged guilt directly or indirectly (by not appearing in court). Judgment was passed on 54 (12.9%), of whom 45 (83.3%) were found guilty. Overall, only 9 (2.2%) were acquitted or released.

In 1987, the legal arguments still centred on questions of law, such as whether an undercover agent could legally pose as a client, and questions relating to the *Charter of Rights and Freedoms* (freedom of expression, freedom of association, freedom to carry on a legal business and so forth).

The majority of accused pleaded guilty and were fined or sentenced to prison. Fines were $300 for a first offence, $500 for a second and $700 for a third. Jail usually followed a third offence. The average sentence was 30 days.

Most accused prostitutes and clients ultimately pleaded guilty, and only ten cases out of the 270 in our sample had reached the trial stage. In eight of these cases, the accused was found guilty. It should be noted that 20% of cases had been put over pro forma pending the Massé judgment on whether the law was constitutional.

IV THE LAW AND PROSTITUTION PRACTICES IN MONTREAL

This chapter is the result of interviews with people in the milieu (male and female prostitutes, clients, procurers and so forth), interviews with enforcement officers and social workers, statistical analysis of our sample of files, our observations and a comparison between 1984 and 1987 data. Wherever possible, to provide a basis for this comparison, we will summarize the street prostitution practices as reported in our 1984 study (Gemme *et al.*, 1984).

1. Street Prostitution Before Application of the Law

1.1 Sociodemographic and Criminological Profile of Prostitutes, Clients and Pimps Interviewed in 1984

We spoke with 75 prostitutes, 28 clients and 4 pimps in 1984.

1.11 Prostitute Profile

Of our 75 prostitutes, 65 were female, 8 were male and 2 were transvestites/transsexuals. Forty-six worked on the street, 9 in massage parlours, 5 through escort agencies, 4 in hotels and 12 elsewhere.

Their average age was 26 (27 for women and 24 for men). Over two thirds had not completed high school.

They had been working as prostitutes an average of six years, and one third had begun before the age of 18. Slightly more than a third had been arrested for a prostitution offence. About 45% had been victims of incest and 33% victims of rape before becoming prostitutes.

We did not have enough information for other personal characteristics such as marital status, number of children, type of cohabitation or sexual preference. These questions were to be asked at the end of the interview, if time and circumstances allowed. Information on prostitution practices had priority.

1.12 Client Profile

Of the 28 clients, 20 were clients of female prostitutes and 8 of male prostitutes. Twenty were street prostitution clients.

The predominant age bracket was 35-45. Three quarters of them earned over $20,000, and one fifth earned over $40,000. It should be stated that we did not break down income by client category (street, hotel and so forth).

Since section 195.1 was not enforced and by-law 333-3(a) applied only to offering services, no client had been arrested. This was also true for clients of forms of prostitution other than street soliciting.

We did not ask about occupation.

1.13 Pimp Profile

Our four pimps came from disadvantaged backgrounds and had little education. They had all been charged with one or more crimes, such as assault, theft or drug trafficking.

1.2 Street Prostitution Practices in 1984

Here we shall briefly summarize our 1984 findings as they relate to certain prostitution practices that were studied in 1987. This will allow us to draw comparisons.

1.21 Known and Estimated Number of Prostitutes

The question dealt with prostitutes in general, and it was put only to police officers. They reported that they knew 500 to 600 regular prostitutes of both sexes in Montreal. This was definitely not the total of all prostitutes arrested and/or for whom records were established. Rather it was an average, reflecting the constant number of prostitutes operating simultaneously over a long period.

Known prostitutes were thought to be only the tip of the iceberg. It was, however, difficult to estimate what might be the real number of prostitutes. Some aspects of prostitution remained unknown or misunderstood because the police did not have time to deal with them. Moreover, the number also depended on how prostitution was defined. The figures would be much higher if the police included occasional prostitutes (who had one or two clients to tide them over the end of the month) and those who traded sexual favours more or less directly for gifts, housing, promotion and so forth.

If these cases were excluded, police estimated that the average number of prostitutes in Montreal was about 3,000, of whom 40% were street prostitutes concentrated in the downtown area.

1.22 Geographic Location

Street prostitution was concentrated in three areas: the "Main" (an area bounded by Sherbrooke, Dorchester, St-Hubert and Bleury), St-Louis Square (Pine Avenue, Laval, Duluth and the square itself, north of Sherbrooke) and St. Catherine between Drummond and Peel. It also took place in Dominion Square and Mount Royal Park. Since we did not conduct a systematic count, we are unable to give further details.

1.23 Daily Variations

Business was very poor on Saturdays, Sundays and holidays, when clients were with their regular partners. As for peak hours, lunchtime (12 to 1 pm) and after office hours (4 to 6 pm) were busy. Business was good between 7 pm and 3 am, with a busier time between 8 and 10 pm. Transvestites/transsexuals came out around midnight.

1.24 Importance of Pimps

The police knew about 65 pimps who they thought controlled about 30% of street prostitutes. That only a minority were under the yoke of pimps was confirmed by prostitutes. Dependence on pimps was frowned on.

1.25 Safety of Prostitutes and Clients

Prostitutes reported that nearly half of those working in the street had been beaten up by clients, and over half had been raped an average of four times since they had begun working. No prostitute had reported a beating to police.

As for clients, one quarter had contracted a sexually transmitted disease and about 15% had been robbed.

1.26 Services, Prices and Incomes

Street prostitution services were confined, as a general rule, to vaginal intercourse, fellatio and masturbation. The rates, respectively, were $50, $30 and $20.

As for incomes, they depended on so many factors that it was hard to find any acceptable average. If, for example, we took the extremes of weekly earnings for street prostitutes, we found they were separated by a factor of four. This is understandable when we consider that income depends on certain personal qualities; availability, initiative and services offered. Eliminating the extremes, we obtained gross weekly incomes ranging from $900 to $1,200 for five to seven hours' work daily over five or six days.

2. Results of Our Systematic Observation in 1987

As mentioned in Chapter II, we conducted systematic counts from May 28 to June 3 and from July 30 to August 5, 1987. We wanted to determine the extent, intensity and fluctuations (hourly, daily and seasonal) of street prostitution and compare our findings with those of the period preceding Bill C-49 by drawing on certain observers' memories.

2.1 Geographic Location

Prostitution is concentrated in three principal sectors and a few secondary sectors. The principal sectors are:

- The central St. Catherine sector, known as the "Main" (police estimate that 70 to 75% of street prostitution takes place in this sector):

  This is the rectangle bounded by St-Denis on the east, Clark on the west, Maisonneuve on the north and Dorchester on the south. The cross streets to St. Catherine are small streets with large parking lots beside them, ideal places for encounters. Three mini-sectors can be observed on the "Main". The corner of St Lawrence and St. Catherine is worked mainly by prostitutes from the US and other provinces. They are the real stereotypes of the prostitute, teasing and displaying their charms boldly. Several work for a pimp. The corner of St-Dominique and St. Catherine is the turf of transvestites and transsexuals. They occupy a small pizzeria and can be easily seen through its display windows. They mainly stay inside, making only a few lightning sorties into the street.

  Further southeast, on cross streets such as Bullion and Hôtel-de-Ville (and small streets such as Dumarais, DuBerger and Charlotte), prostitutes are much quieter in their appearance and approach. Many are hard to spot.

- Lafontaine Park:

  Homosexual prostitution, which police estimate comprises 15 to 20% of all street prostitution, occurs mainly on Calixa-Lavallée and Emile-Duployé and the adjacent parking lots. Pedestrian clients may also meet prostitutes on pathways in the park. Occasionally one or two heterosexual prostitutes can be found there. Most male prostitutes walk rue Emile-Duployé, while a few walk Calixa-Lavallée, a dead-end street. When a client parks on the street, a prostitute may approach him immediately, but more often he proceeds slowly to the nearest parking lot. There, the client meets him. According to our respondents, this procedure attracts less police attention. The client may also signal his intention by turning his car lights on and off. When a client is on foot, he approaches the prostitute by walking beside him or sitting near him on a bench. Once an agreement has been reached, the two head for the interior of the park. By day, prostitutes are fewer and less visible. They move from place to place in the park.

- Other sectors:

Street prostitutes are also to be found in secondary areas, where there is much less action and it tends to be sporadic. These are:

- Pine Avenue:

Following complaints by St. Louis Square residents in '84, the city changed traffic direction on some streets to make access for cars harder. The prostitutes then moved to Pine, between Henri-Julien and St-Denis. Following a series of police undercover operations in winter and spring 1987, the prostitutes left this area, only returning in late July.

- West St. Catherine:

Between Stanley and Drummond, two to four female streetwalkers work out of a bar on Thursday, Friday and Saturday evenings. There are none at other times

- Other districts:

As we travelled around the city, we did not find any new areas where prostitution seemed to have become significant and stable. We did, however, observe a few women hitchhiking on Ontario near Amherst, on St. Lawrence, and a few times very late in the evening on St. Catherine near Dézéry. These hitchhikers are still an infrequent and marginal occurrence.

Finally, we should say that aside from Pine Avenue, where prostitutes were seen regularly during the second week of observation, activity at the different locations did not vary from the first observation period to the second. Two or three female prostitutes were observed on Jeanne-Mance, two streets west of the "Main" rectangle, probably because they were under district restrictions.

2.2 Hourly, Daily and Seasonal Variations in the Number of Prostitutes

Our counts on May 28 and 29 were meant to evaluate hourly variations and determine the peak hours for observation during the following days and the second week of counting. Our primary objective was to obtain the highest numbers so as to more accurately evaluate the extent of street prostitution.

Our earlier observations had shown us that Pine Avenue and the corner of Dézéry and St. Catherine were borderline districts where there were only occasionally one or two prostitutes. This was confirmed by our observations from 10 to 11 pm on May 28, when we did not see any prostitute. Later, we learned from police and a resident that this was normal, because following residents' complaints, systematic enforcement had been applied for several weeks during the winter and spring. The Dézéry and St. Catherine district had been patrolled by police, every time they received information from the local police station. Consequently, we confined our count to the "Main", Lafontaine Park and Drummond districts.

Complete counts were made from 10:30 am to 1 am, except between 7 and 10 pm in the first weeks, when violent storms and heavy rain struck Montreal. Earlier observations confirmed that there was less activity at these times of day than during the peak periods identified. As for the period around 3 am, only the "Main" was visited, because prostitution, at this time, depends on trade from the closing of nude dancer clubs which are concentrated in that district. Drunk, sexually excited men become potential clients then.

Tables 36 and 37 present counts for the districts selected in eight separate time blocks, on Thursday, May 28 and Friday, May 29, 1987.

TABLE 36

PROSTITUTES COUNTED IN VARIOUS TIME BLOCKS AND BY DISTRICT, THURSDAY, MAY 28, 1987

District	"Main"			Lafontaine Park			Drummond			Total
Time	**HP**	**MP**	**Total**	**HP**	**MP**	**Total**	**HP**	**MP**	**Total**	**H and M**
A - Day										
10:30 am	2	0	2	0	1	1	0	0	0	3
12:30 pm	5	0	5	0	1	1	1	0	1	7
4:30 pm	8	0	8	0	4	4	1	0	1	13
6 pm	8	0	8	0	6	6	2	0	2	16
Total (Day)			23			12			4	39
Average (Day)			5.75			3			1	9.75
B - Evening										
10:30 pm	19	0	19	3	3	6	1	0	1	26
11:30 pm	24	0	24	1	6	7	2	0	2	33
12:30 am	31	0	31	1	6	7	4	0	4	42
Total (Evening)			74			20			7	101
Average (Evening)			24.6			6.66			2.33	33.6
C - 3 am on the "Main"										
3am	30	0	30							

HP = Heterosexual prostitution by women and transvestites/transsexuals
MP = Homosexual prostitution by men

TABLE 37

PROSTITUTES COUNTED IN VARIOUS TIME BLOCKS AND BY DISTRICT, FRIDAY, MAY 29, 1987

District	"Main"			Lafontaine Park			Drummond			Total
Time	HP	MP	Total	HP	MP	Total	HP	MP	Total	H and M
A - Day										
10:30 am	3	0	3	0	2	2	0	0	0	5
12:30 pm	7	0	7	0	2	2	4	0	4	13
4:30 pm	7	0	7	0	4	4	1	0	1	12
6 pm	9	0	9	0	6	6	0	0	0	15
Total (Day)			26			14			5	45
Average (Day)			6.5			3.5			1.25	11.25
B - Evening										
10:30 pm	8	0	8	1	8	9	2	0	2	19
11:30 pm	23	0	23	3	6	9	4	0	4	36
12:30 am	22	0	22	0	3	3	2	0	2	27
Total (Evening)			53			21			8	82
Average (Evening)			17.66			7			2.66	27.3
C - 3 am on the "Main"										
3am	18	0	18							

HP = Heterosexual prostitution by women and transvestites/transsexuals
MP = Homosexual prostitution by men

The following points emerge from these tables:

- there is a very great difference between daytime and evening activity levels. Between 10:30 am and 6 pm, we counted an average of 9.75 prostitutes on Thursday, May 28 and 11.25 on Friday, May 29, compared to 33.6 and 27.3 for the period from 10:30 pm to 1:30 am.

- the peak hours are from 10 pm to 1 am, with greater concentration from 11 pm to 1 am.
- the Drummond district is really a secondary district, never populated by more than four prostitutes at a time.

These observations led us to eliminate the Drummond district from future counts and concentrate exclusively on the two times when we observed the largest numbers, 11 pm and 12:30 am.

Tables 38 and 39 give numbers at peak hours in the periods May 28 to June 3 and July 30 to August 5, 1987, for the two main districts.

Figure 4 presents the same results in bar chart form. For convenience, we estimated the average number of prostitutes on Wednesday, June 3 to be 30.

TABLE 38

NUMBER OF PROSTITUTES AT PEAK HOURS BY DISTRICT FOR THE PERIOD THURSDAY, MAY 28 TO WEDNESDAY, JUNE 3, 1987

District	"Main"			Lafontaine Park			Total	Evening Average M. and F.
Day/Date/Hr.	HP	MP	Total	HP	MP	Total		
Thu. 28/5,								
11:00	24	0	24	1	6	7	31	34.5
12:30	31	0	31	1	6	7	38	
Fri. 29/5,								
11:00	23	0	23	3	6	9	32	28.5
12:30	22	0	22	0	3	3	25	
Sat. 30/5,								
11:00	35	0	35	0	5	5	40	35
12:30	26	0	26	0	4	4	30	
Sun. 31/5,								
11:00	31	0	31	0	7	7	38	30
12:30	22	0	22	1	3	4	26	
Mon. 1/6,								
11:00	18	0	18	0	6	6	24	25.1
12:30	20	0	20	1	6	7	27	
Tue. 2/6,								
11:00	17	0	17	2	6	8	25	30
12:30	28	0	28	1	6	7	35	
Wed. 3/6,								
11:00	25	0	25	0	6	6	31	-
12:30	21	0	21	-	-*	-*	not known**	
Total			343			80	402	
Average			24.5			6.15	30.9	

*The streets were closed to traffic.

**Not known, because streets were closed.

TABLE 39

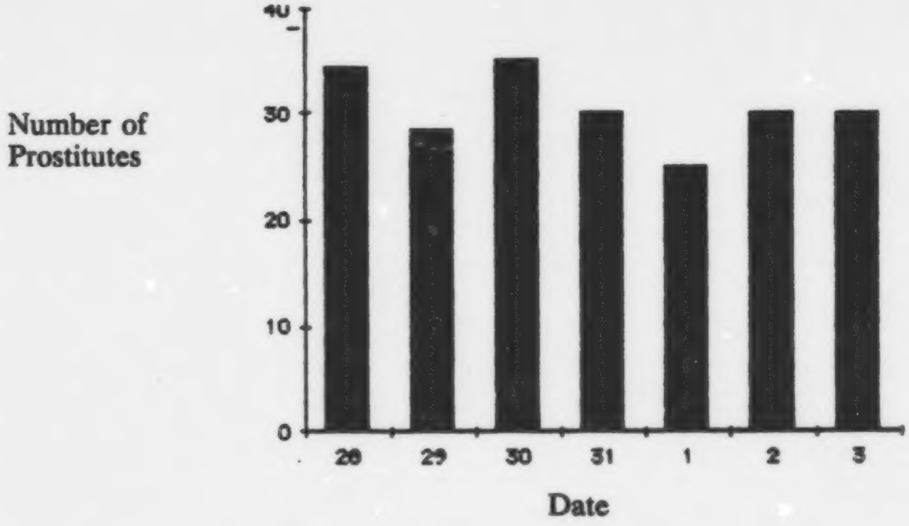
NUMBER OF PROSTITUTES AT PEAK HOURS BY DISTRICT FOR THE PERIOD THURSDAY, JULY 30 TO WEDNESDAY, AUGUST 5, 1987

District	"Main"			Lafontaine Park			Total	Evening Average M. and F.
Day/Date/Hr.	HP	MP	Total	HP	MP	Total		
Thu. 30/7,								
11:00	36	0	36	2	7	9	45	39
12:30	28	0	28	1	4	5	33	
Fri. 31/7,								
11:00	39	0	39	1	5	6	45	43
12:30	35	0	35	1	5	6	41	
Sat. 1/8,								
11:00	26	0	26	0	3	3	29	34
12:30	33	0	33	1	5	6	39	
Sun. 2/8,								
11:00	9	0	9	0	1	1	10	8.5
(Rain) 12:30	7	0	7	0	0	0	7	
Mon. 3/8,								
11:00	24	0	24	0	4	4	28	27
12:30	21	0	21	1	4	5	26	
Tue. 4/8,								
11:00	25	0	25	1	5	6	31	27.5
12:30	22	0	22	0	2	2	24	
Wed. 5/8,								
11:00	20	0	20	4	5	9	29	28.5
12:30	25	0	25	0	3	3	28	
Total for the Week			350			65	415	
Average for the Week			25			4.64	29.64	

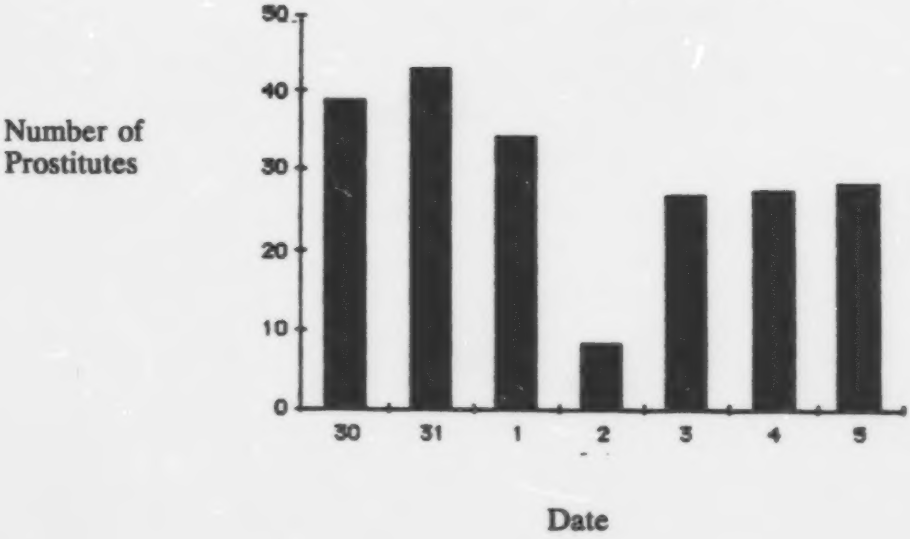
FIGURE 4

BAR CHARTS REPRESENTING NUMBERS OF PROSTITUTES AT PEAK HOURS FOR THE TWO OBSERVATION WEEKS

A- Thursday, May 28 to Wednesday, June 3, 1987



B- Thursday, July 30 to Wednesday, August 5, 1987



We note the following points:

- There is no significant seasonal variation between spring (the period May 28 to June 3) and summer (the period July 30 to August 5). Even if it had not rained on Sunday, August 2, the week's average would have at best risen from 25 to 26, compared to the average of 24.5 for the spring week;
- There is a daily variation. As a general rule, Thursday, Fridays and Saturdays have higher averages than the other days of the week, the lowest average being recorded for Mondays. The average of only 28.5 on Friday, May 29 is due to intense police activity following a rock show. Cars were patrolling the "Main" continually. As a result, we counted only 23 and 22 prostitutes at 11 and 12:30 pm;
- The most prostitutes ever identified on the "Main" (on Friday, July 31 around 11 pm) was 39, and the most male and female prostitutes identified in Lafontaine Park was 9 (Friday, May 29, Thursday, July 30 and Wednesday, August 5, around 11 pm);
- The grand total of male and female prostitutes ranged from a minimum of 7 on Sunday, August 2 at 12:30 am on a warm but rainy night to a maximum of 45 on Thursday, July 30 and Friday, July 31, at 11 pm on a fine, warm evening.

2.3 Special Count in a Period of Relaxed Police Enforcement on Pine Avenue

During the period June 15 to July 15, police concentrated on the "Main" and Lafontaine Park, neglecting Pine Avenue, on which they had mounted successful enforcement operations in winter and spring. Fresh information suggested that prostitutes had gone back to Pine, which was deserted during our first round of observations. We, therefore, decided to make a count there around 11 pm during our second week of systematic observation (Table 40).

Table 40 shows the variation in counts for the period Thursday, July 30 to Wednesday, August 5, 1987.

We see that although activity is modest compared to the "Main", it has resumed on a regular basis which coincides with the absence of police enforcement, as police confirmed. No doubt this should be attributed to district restrictions on the "Main" which were imposed on several prostitutes as a condition of bail, and to the mobility of women who want to avoid police enforcement.

More enforcement, however, is to be expected following the complaints which some residents, including one of our respondents, are preparing to lodge.

TABLE 40

PROSTITUTES COUNTED ON PINE AVENUE AROUND 11 PM DURING A PERIOD OF RELAXED POLICE ENFORCEMENT

Day/Date	WP	MP	Total
Thu. 30/7	4	0	4
Fri. 31/7	3	0	3
Sat. 1/8	5	0	5
Sun. 2/8	0	0	0
Mon. 3/8	1	0	1
Tue. 4/8	2	0	2
Wed. 5/8	2	0	2
Total	17	0	17
Average			2.4

2.4 Observation and Counts in a Period of Intense Police Enforcement on the "Main"

Around June 15, word went around on the street that police would step up surveillance because of the St-Jean-Baptiste celebrations and the Montreal International Jazz Festival. In addition, on June 19 we witnessed a raid on a well-known rooming house on the "Main". We then decided to add systematic counts on four consecutive Saturdays covering the period before, during and after these public celebrations. During this period, the busiest rooming house was raided. And a blitz on the night of June 26 led to the arrest of 16 prostitutes and six clients.

Panic then set in among prostitutes. They were distrustful of all their clients, suspecting them of being plainclothes investigators. Most spent only a few minutes on the street, preferring to stay inside cafés and bars. Some hid in adjacent lanes, hoping clients would find them. A few decided to take holidays. Table 41 shows the variations in the number of prostitutes during the period of intense enforcement (three Saturdays, June 20 and 27 and July 4) and in a normal period (Saturday, July 11) at peak hours.

As we can see, the day after the rooming house was raided, only 12 prostitutes were counted on the street during peak hours. During the Jazz Festival the average was less than three (three on June 27 and one on July 4). These are low averages compared to the 24.5 for Saturday, July 11. Prostitutes are not the only ones to be afraid of police. They say that rooming house owners are also afraid. One owner closed his doors during the Festival, and another two would only rent a room twice in one day to each prostitute.

As soon as the Festival period was over, the prostitutes returned to the street. On the evening of Friday, July 10, for example, when we toured the district with a policeman, we counted 40 prostitutes on the "Main" between 11:30 pm and 12:30 am, and 37 prostitutes between 12:30 and 1 am.

TABLE 41

PROSTITUTES COUNTED ON THE "MAIN" DURING A PERIOD OF INTENSE POLICE ENFORCEMENT

Day/Date	FP	MP	Total	Average
Sat. 20/6, 11:00	12	0	12	12
12:30	12	0	12	
Sat. 27/6, 11:00	6	0	6	4.5
12:30	3	0	3	
Sat. 4/7, 11:00	2	0	2	1
12:30	0	0	0	
Sat. 11/7, 11:00	24	0	24	24.5
12:30	25	0	25	

2.5 Observation of Traffic

Anyone in a hurry to return home on a Thursday, Friday or Saturday evening should avoid the area of St. Catherine and St. Lawrence. A distance that can be covered in five minutes during the day, when traffic is normal, may take 30 to 45 minutes in the evening. And if a lane is momentarily blocked by a police officer or an ambulance driver, for example, the wait may be very long. Furthermore, many drivers go to this district for a pleasure drive, to watch the street life. Traffic slowdowns merely make the show last longer.

The lanes between St. Catherine and Dorchester are also very busy. Cars are constantly coming and going. This is where the great majority of transactions in vehicles take place, because of the parking lots nearby.

3. Sociodemographic and Criminological Profile of Adult Prostitutes and Clients Engaging in Street Prostitution in 1987

3.1 Sociodemographic and Criminological Profile of Prostitutes and clients in Our Sample

Our sample, as explained, consisted of 270 cases, representing ten per cent of the cases involving adults charged under s.195.1 in Municipal Court records from January 14, 1986 to June 30, 1987. It comprised 95 client cases and 175 cases involving male, female and transvestite/transsexual prostitutes. The profile of the 27 juvenile female prostitutes will be presented in a separate section. The tables in this section apply only to adult prostitutes and clients.

3.11 Involvement and Type of Prostitution

Tables 42 and 43 break cases down by the involvement (prostitute or client) of the accused and the type of prostitution.

TABLE 42
CASES IN OUR SAMPLE, BROKEN DOWN BY INVOLVEMENT OF ACCUSED (N=270)

Involvement	Number	%
Prostitute	175	64.8
Client	95	35.2
Total	270	100.0

As can be seen, there are nearly twice as many prostitutes' as clients' cases in Municipal Court records.

TABLE 43

PROSTITUTES IN OUR SAMPLE, BROKEN DOWN BY TYPE OF PROSTITUTION (N=175)

Type of Prostitution	Number	%
Heterosexual by Women	140	80
Heterosexual by T/T*	16	9.1
Homosexual by Men	19	10.9
Total	175	100.0

*T/T: transvestites/transsexuals

From this we see that homosexual prostitution represents only 10.9% of total prostitution and makes up slightly over 50% of prostitution by men, the other portion being engaged in by transvestites/transsexuals. This finding suggests that we should proceed cautiously in analyzing police or Court statistics, for they classify prostitution under three headings: women "engaging in", men "engaging in" and clients "obtaining". The category "engaging in" for men is, therefore, not a category that refers exclusively to homosexual prostitution.

From the client's point of view, these findings show that a client on the "Main" has 12.5 chances out of 100 of contracting with a transvestite/transsexual instead of a woman (16 out of 156).

3.12 Age

Tables 44 and 45 break the accused down by age, involvement and type of prostitution.

TABLE 44

PROSTITUTES AND CLIENTS IN OUR SAMPLE, BY AGE AND INVOLVEMENT (N=270)

Involvement	Prostitutes		Clients	
Age	n	%	n	%
18-24	107	61.1	9	9.5
25-34	63	36.0	35	36.8
35-44	4	2.3	30	31.6
45-54	0	0.0	12	12.6
55+	1	.6	9	9.5
Total	175	100.0	95	100.0
Average*	age 24		age 36	
Median	age 24		age 36	

*We excluded the 58-year-old prostitute when calculating the average.

We see that clients are older than prostitutes and that in the under-24 age bracket there are twelve times as many prostitutes as clients. This is because the majority of clients are or have been married, as Table 46 shows, and they are older than prostitutes, most of whom are single and hence younger.

TABLE 45

PROSTITUTES BY AGE AND TYPE OF PROSTITUTION
(N=175)

Type	FP		T/TP		HP		Total	
Age	n	%	n	%	n	%	n	%
18-24	84	60.0	9	56.3	14	73.7	107	61.1
25-34	52	37.2	6	37.5	5	26.3	63	36.0
35+	4	2.8	1	6.2	0	0.0	5	2.9
Total	140	100.0	16	100.0	19	100.0	175	100.0
Average	age 24.5		age 25.6		age 22.8			

FP: heterosexual prostitution by women
T/TP: heterosexual prostitution by transvestites/transsexuals
HP: homosexual prostitution by men

We see that homosexual prostitutes are the youngest group. This can be explained by the fact that adult male prostitution seems most often to be a continuation of prostitution begun in adolescence and by the fact that older prostitutes (over 25) are less attractive to clients. This is not so much the case with women prostitutes.

3.13 Marital status

Tables 46 and 47 break the sample down by marital status. Police records give this information in three categories: single, married and other. In 22 cases, however, this information was not given.

TABLE 46

PROSTITUTES AND CLIENTS BY MARITAL STATUS (N=270)

Involvement	**Prostitutes**		**Clients**	
Marital status	**n**	**%**	**n**	**%**
Single	165	94.30	26	27.4
Married	2	1.15	51	53.7
Other	2	1.15	2	2.1
Not known	6	3.40	16	16.8
Total	175	100.0	95	100.0

We see that most prostitutes are single, while over half of clients are married. It may seem surprising that the "other" category (divorced, separated and so forth) occurs less frequently. It must be that this information was given to the police at the time of arrest and has not been checked. Moreover, we believe that separated and divorced people see themselves as single. If there is no specific category for the divorced and separated, they will naturally classify themselves as single. These findings are also consistent with the statement from representatives of the Alliance for the Safety of Prostitutes that most female prostitutes are single mothers. It is also possible that prostitutes living with a partner may prefer conceal what they do, so the partner will not be harassed with s.195 on procuring.

We also see in Table 47 that there is no great disparity between different types of prostitutes. In each group, the vast majority call themselves single.

TABLE 47

PROSTITUTES BY MARITAL STATUS AND TYPE OF PROSTITUTION (N=175)

Type	FP		T/TP		HP		Total	
Marital status	n	%	n	%	n	%	n	%
Single	131	93.6	16	100.0	18	94.7	165	94.3
Married	2	1.4	0	0.0	0	0.0	2	1.1
Other	2	1.4	0	0.0	0	0.0	2	1.1
Not Known	5	3.6	0	0.0	1	5.3	6	3.5
Total	140	100.0	16	100.0	19	100.0	175	100.0

3.14 Country of Origin

Tables 48 and 49 present the place of birth of those in our sample, and the language they speak, if they are Canadians. A large majority (over 85%) are of Canadian origin, and 57.6% of Canadian prostitutes and 82.5% of Canadian clients speak French.

We also see that Americans make up only 1.7% of all prostitutes. If we limit our attention to female prostitutes (not shown here), we find only 1.1%, or 2 out of 140, are American.

TABLE 48

PROSTITUTES AND CLIENTS BY COUNTRY OF ORIGIN (N=270)

Involvement	Prostitutes		Clients	
Country of	n	%	n	%
Canada	167	95.4	81	85.2
United States	3	1.7	2	2.1
India	1	0.6	1	1.05
Haiti	1	0.6	1	1.05
Greece	-	-	2	2.1
Germany	1	0.6	-	-
France	-	-	1	1.05
Hungary	-	-	1	1.05
Italy	-	-	1	1.05
Lebanon	-	-	1	1.05
Pakistan	-	-	1	1.05
Portugal	1	0.6	-	-
Syria	-	-	1	1.05
Vietnam	-	-	1	1.05
Yugoslavia	1	0.6	-	-
Not Known	-	-	1	1.05
Total	175	100.0[1]	95	100.0[2]

[1] 100.1 rounded to 100.0.

[2] 99.9 rounded to 100.0.

TABLE 49

PROSTITUTES AND CLIENTS OF CANADIAN ORIGIN BY LANGUAGE SPOKEN (N=248)

Involvement	Prostitutes		Clients	
Language	n	%	n	%
French	95	56.9	66	81.5
English*	72	43.1	15	18.5
Total	167	100.0	81	100.0

*Two prostitutes were Native.

3.15 Race

Police request for proceedings forms contain a box for race, divided into black, white and other. Table 50 shows that in over 85% of cases, the accused are white. Blacks are more heavily represented among prostitutes than among clients.

TABLE 50

PROSTITUTES AND CLIENTS BY RACE (N=270)

Involvement	Prostitutes		Clients	
Race	n	%	n	%
White	149	85.15	89	93.7
Black	23	13.15	2	2.1
Other	3	1.70	4	4.2
Total	175	100.0	95	100.0

Checking this against other information, we found that in three cases, the prostitute was a black American woman. If those arrested are representative of the milieu, we would have to conclude that prostitution by black American women is a marginal phenomenon. This runs contrary to the popular assumption that in summer, many American pimps move to Montreal with their prostitutes. We repeat, the statistics show that such immigration accounts for only 1.7% of street prostitution cases involving women. Thus, either this is really a marginal phenomenon following enforcement of the law, under which prostitutes are handed over to immigration authorities who deport them, or they work secretly or with false identity papers.

3.16 Occupation

Tables 51 and 52 show cases broken down by the occupation of the accused. In Table 51 we see that the vast majority of prostitutes have no other employment. Police give "prostitute" as a person's occupation when he or she states he is unemployed, not working or on welfare.

TABLE 51
PROSTITUTES BY OCCUPATION (N=175)

Occupation	n	%
Prostitute (M/F)	166	94.8
Dancer (F)	5	2.9
Student (F)	2	1.1
Cook (M)	1	0.6
Mechanic (M)	1	0.6
Total	175	100.0

These findings, combined with low education, suggest that if women prostitutes had to give up prostitution, they would have limited opportunities in other fields.

Table 53 breaks down clients' occupations by skilled and unskilled. We omitted unemployed and retired clients and those whose occupation is unknown. The distinction between skilled and unskilled is the only one we could make on the basis of available information.

Without knowing either income or education, we could not use a socio-economic scale, such as Blischen's, for example. There is a great difference between a sporting goods or car representative or salesman and a pharmaceuticals or computer services representative with a university degree. By the same token, an accountant may be a CA or an accounting clerk. A sales director in a car dealership is very different from a sales director in an electricity or gas company, who is likely to be an engineer. A businessman may have a high school diploma or hold an MBA.

TABLE 52
CLIENTS BY OCCUPATION, SKILLED AND UNSKILLED (N=95)

Occupation	Number	Skilled	Unskilled
Driver, Trucker, Deliveryman	10		10
Labourer	5		5
Technician	5	5	
Sales Representative	5	5	
Businessman	4	4	
Accountant	4	4	
Student	4	4	
Garage Mechanic	3		3
Administrator	2	2	
Clerk	2	2	
Contractor	2	2	
Manager, Supervisor	2	2	
Reader's Digest Assistant	1	1	
Butcher	1		1
Lumberjack	1		1
Taxi driver	1		1
Cook	1		1
Sales Director	1	1	
Cabinetmaker	1		1
Cantor	1	1	
Teacher	1	1	
Printer	1		1
Computer Programmer	1	1	
Inspector	1	1	
Insurance Inspector	1	1	
Machinist	1		1
Mechanic	1		1
Physician	1	1	
Carpenter	1		1
Carpet Cleaner	1		1
Crane Operator	1		1
Press Operator	1		1
Stationer	1		1
Landscaper	1		1
Painter	1		1
Vacuum Repairman	1		1
Restaurant Owner	1		1
Tailor	1		1
Golf Professional	1		1
Warehouseman	1		1
Retired, Unemployed, Not Known	19		
Total and Percentage	95 100%	38 50%	38 50%

TABLE 53

CLIENTS' KNOWN OCCUPATIONS AS SKILLED OR UNSKILLED (N=76)

Category	Number	%
Skilled	43	56.6
Unskilled	33	43.4
Total	76	100.0

3.17 Place of Residence

We checked place of residence to determine how mobile prostitutes are. We see in Table 54 that the majority of female prostitutes live in Montreal. We also see that all clients gave a city of residence, whereas 8% of prostitutes had no fixed address. In such cases, the accused is usually detained until she appears in court the next morning. We also observe that a larger number of Quebec clients than of prostitutes live outside the Montreal region (Granby, Sherbrooke and so forth).

TABLE 54

PROSTITUTES AND CLIENTS BY PLACE OF RESIDENCE (N=270)

Involvement	Prostitutes		Clients	
Place of residence	**n**	**%**	**n**	**%**
Montreal and Suburbs	145	82.8	79	83.2
Rest of Quebec	5	2.8	12	12.6
Ottawa	3	1.7	-	-
Toronto	3	1.7	-	-
Saskatoon	-	-	1	1.05
Winnipeg	1	0.6	-	-
Calgary	1	0.6	-	-
Vancouver	2	1.2	1	1.05
United States	1	0.6	1	1.05
Paris	-	-	1	1.05
Not Known	14	8.0	-	-
Total	175	100.0	95	100.0

3.18 Criminal Record

To complete the sociodemographic profile of our accused, we attempted to find out whether they had a criminal record. As mentioned earlier, we could use the records of those arrested for prostitution for this or this purpose. Each record contained every request to initiate proceedings since 1979 for the following offences:

- prostitution offences:
    - municipal by-law 5464 of June 15, 1981 making it an offence to offer or request sexual services in a public place for money (the City stopped using this by-law in January 1983, when the Supreme Court of Canada ruled a similar Calgary by-law unconstitutional);
    - municipal by-law 333-3(a) of May 18, 1982 making it an offence to sell sexual services without a license (this by-law is still in effect but has not been used for prostitution since the new s.195.1 came into effect);
    - municipal by-law 333-(2) of December 23, 1907, still enforced in 1979, which prohibits loitering;
    - s.193.1 and 2: keeping or being found in a bawdy-house;
    - s.195: pimping
    - s.195.1(1): soliciting in a public place;
- offences relating to prostitution:
    - 118(a): obstructing or resisting (for example, giving a false identity);
    - 246(1): assaulting a peace officer;
    - 133(2): failure to appear;
    - 133.3(b): failure to comply with a bail condition;
    - 666.1: failure to comply with a probation order.

From this type of record, we cannot establish a person's history of other criminal offences.

It is clear that all the data in tables 55 and 56 represent a person's record up to the date on which he or she was arrested. Thus, prostitutes arrested in February 1986 were unlikely to have a history of charges under s.195.1, whereas a prostitute arrested in June 1987 was more likely to have one.

For our analysis, we used only the involvement of accused (prostitute or client) and type of prostitution, namely heterosexual, transvestite/transsexual (t/t) or homosexual. There was no point in classifying prostitutes by marital status, race or employment, since the numbers would not have been high enough in the subcategories married, black or employed other than as a prostitute.

Table 55 shows the number of cases among the 270 that were not preceded by other offences. As noted, this includes only prostitution or prostitution-related offences.

TABLE 55

CASES IN THE SAMPLE BY INVOLVEMENT AND WHETHER OR NOT THEY HAD A RECORD (N=270)

Involvement	Prostitutes		Clients		Total	
Record	n	%	n	%	n	%
Yes	110	62.9	1	1.1	111	41.1
No	65	37.1	94	98.9	159	58.9
Total	175	100.0	95	100.0	270	100.0

We see from this that far more accused prostitutes than accused clients had a record. We should mention, however, that police enforcement aimed at clients really only began in December 1986, are less frequent and involve fewer people (two or three policewomen at a time). It should also be noted that prostitutes are easier to identify than clients.

Table 56 presents the same data but for the various types of prostitution. We see a distinct difference between cases involving heterosexual or transvestite/transsexual prostitutes and those involving homosexual prostitutes. The latter cases are preceded by earlier offences much less frequently. This is because systematic operations in Lafontaine Park occur less often. Moreover, the form of prostitution makes surveillance more difficult, since relations may take place in the park under the bushes. Some of our respondents also confirmed that investigators resisted acting as undercover agents, some no doubt because of fear of AIDS, others because they were uncomfortable or disgusted.

TABLE 56

CASES IN THE SAMPLE BY TYPE OF PROSTITUTION AND WHETHER OR NOT THEY HAD A RECORD (N=175)

Type	Heterosexual		T/T		Homosexual		Total	
Record	n	%	n	%	n	%	n	%
Yes	91	65	12	75	7	36.8	110	62.9
No	49	35	4	25	12	63.2	65	37.1
Total	140	100	16	100	19	100	175	100

We wanted to find out the type of prior record preceded our cases. Table 57 breaks down prostitutes' and clients' cases by record. We find that only one client had committed a prior prostitution offence.

TABLE 57

PROSTITUTE AND CLIENT CASES BY WHETHER THEY HAD AT LEAST ONE PREVIOUS OFFENCE UNDER S.195.1 (N=270)

Involvement	Prostitute		Client	
Record of s.195.1	n	%	n	%
Yes	85	48.6	1	1.1
No	90	51.4	94	98.9
Total	175	100.0	95	100.0

TABLE 58

PROSTITUTE CASES BY TYPE OF PROSTITUTION AND WHETHER THEY HAD AT LEAST ONE PREVIOUS OFFENCE UNDER S.195.1 (N=175)

Type	Heterosexual		T/T		Homosexual		Total	
Record of s.195.1	n	%	n	%	n	%	n	%
Yes	73	52.1	8	50	4	21.1	85	48.6
No	67	47.9	8	50	15	78.9	90	51.4
Total	140	100.0	16	100	19	100.0	175	100.0

Table 58 shows, for prostitutes only, the number of accused who had previous offences under s.195.1.

We note that over half of cases involving female and transvestite/transsexual prostitutes had been preceded by an offence under s.195.1, as compared to one fifth of cases involving homosexuals. We also calculated the number of prior offences, which is presented in Table 59. We should make clear that the former s.195.1 had not been used since the *Hutt* decision, and that our results cover the period January 1, 1986 to June 30, 1987. Thus, the 175 prostitutes' cases had been preceded by 205 offences of this type for an average of 1.17 per case. The average rises to 2.4, however, for the 85 cases involving repeaters.

TABLE 59

NUMBER OF PREVIOUS OFFENCES UNDER S.195.1 BY TYPE OF PROSTITUTE (N=85)

Type	No. of Cases with Previous Offences	No. of Previous Offences Under by Type s.195.1	Average
Heterosexual	73	179	2.45
T/T	8	22	2.8
Homosexual	4	4	1.0
Total	85	205	2.4

We also wanted to find out what other types of previous offences that had prostitutes' cases. Table 60 gives information for prostitution offences, and Table 61 for prostitution-related offences (note that some prostitutes committed several types of offences).

As can be seen in Table 60, no offence under the former s.195.1 was reported. The most common offence (31.5%) was under municipal by-law 333-3(a), which prohibits selling (sexual services or anything) without a license in a public place.

We see from Table 61 that very few cases (a maximum of 8.6%) had a record of the type of offences listed, and that the offences committed most often were breach of parole or bail conditions (133-3(b)) and giving a false identity (118(a)). It is also worth noting that in cases prior to those used in our sample, there were scarcely any failures to appear (1.7%).

TABLE 60

NUMBER OF CASES OF PROSTITUTES IN OUR SAMPLE WITH PREVIOUS PROSTITUTION OFFENCES OTHER THAN UNDER THE NEW S.195.1 BY TYPE OF PROSTITUTION (N=175)

Type Offences and Record	Heterosexual n	Heterosexual %	T/T n	T/T %	Homosexual n	Homosexual %	Total n	Total %
5464:								
Yes	2	1.4	0	0	0	0	2	1.1
No	138	98.6	16	100	19	100	173	98.9
Total	140	100.0	16	100	19	100	175	100.0
333-2(b):								
Yes	2	1.4	0	0	0	0	2	1.1
No	138	98.6	16	100	19	100	173	98.9
Total	140	100.0	16	100	19	100	175	100.0
333-3(a):								
Yes	44	31.4	6	37.5	5	26.3	66	31.5
No	96	68.6	10	62.5	14	73.7	120	68.5
Total	140	100.0	16	100.0	19	100.0	175	100.0
193.1:								
Yes	12	8.6	1	6.3	0	0	13	7.4
No	128	91.4	15	93.7	19	100	162	92.6
Total	140	100.0	16	100.0	19	100	175	100.0
1932:								
Yes	2	1.4	0	0	0	0	2	1.1
No	138	98.6	16	100	19	100	173	98.9
Total	140	100.0	16	100	19	100	175	100.0
195:								
Yes	1	0.7	0	0	0	0	1	0.6
No	139	99.3	16	100	19	100	174	99.4
Total	140	100.0	16	100	19	100	175	100.0
Former 195.1:								
Yes	0	0	0	0	0	0	0	0
No	140	100	16	100	19	100	175	100
Total	140	100	16	100	19	100	175	100

TABLE 61

NUMBER OF CASES OF PROSTITUTES WITH PREVIOUS PROSTITUTION-RELATED OFFENCES, BY TYPE OF PROSTITUTION (N=175)

Type	Heterosexual		T/T		Homosexual		Total	
Offences and Record	**n**	**%**	**n**	**%**	**n**	**%**	**n**	**%**
133.2:								
Yes	3	2.2	0	0	0	0	3	1.7
No	137	97.8	16	100	19	100	172	98.3
Total	140	100.0	16	100	19	100	175	100.0
133.3(b):								
Yes	10	7.1	2	12.5	0	0	12	6.9
No	130	92.9	14	87.5	19	100	163	93.1
Total	140	100.0	16	100.0	19	100	175	100.0
118.(a):								
Yes	15	10.7	0	0	0	0	15	8.6
No	125	89.3	16	100	19	100	160	91.4
Total	140	100.0	16	100	19	100	175	100.0
246:								
Yes	3	2.2	0	0	0	0	3	1.7
No	137	97.8	16	100	19	100	172	98.3
Total	140	100.0	16	100	19	100	175	100.0
666.1:								
Yes	1	0.7	0	0	0	0	1	0.6
No	139	99.3	16	100	19	100	174	99.4
Total	140	100.0	16	100	19	100	175	100.0

We attempted to find out what proportion of the 175 cases under study had failing to appear. In compiling our data, we noted all defaults (failure to appear), whether at a first appearance, a trial or a pro forma adjournment. Tables 62 and 63 present our findings by involvement and type of prostitution.

As Table 62 shows, only 9.5% of clients failed to appear, compared to 27.4% of prostitutes. This is because clients, 53.7% of whom are married, are anxious to settle their cases as discreetly as possible. A bench warrant would be likely make family or co-workers aware of their problem. Moreover, clients as a rule plead guilty when they appear and pay fines immediately to avoid receiving a bill at home.

TABLE 62

FAILURE TO APPEAR IN PROSTITUTE AND CLIENT CASES IN OUR SAMPLE (N=270)

Involvement	Prostitutes		Clients		Total	
Default	**n**	**%**	**n**	**%**	**n**	**%**
Yes	48	27.4	9	9.5	57	21.1
No	127	72.6	86	90.5	213	78.9
Total	175	100.0	95	100.0	270	100.0

TABLE 63

FAILURE TO APPEAR IN PROSTITUTE CASES BY TYPE OF PROSTITUTION (N=175)

Type	Heterosexual		T/T		Homosexual		Total	
Failure to Appear	**n**	**%**	**n**	**%**	**n**	**%**	**n**	**%**
Yes	38	27.1	3	18.8	7	36.8	48	27.4
No	102	72.9	13	81.2	12	63.2	127	72.6
Total	140	100.0	16	100.0	19	100.0	175	100.0

Table 63 shows that homosexual prostitutes are more prone to to fail to appear than other groups.

In order to take our criminological profile further, we sought to determine the number of cases in which a bench warrant was served following a failure to appear. In Table 64 we see that 18 prostitute cases were still pending when our information was gathered, because warrants had not been served.

TABLE 64

SERVICE OF BENCH WARRANT BY TYPE OF PROSTITUTION (N=48)

Type Warrant Served	Heterosexual n	 %	T/T n	 %	Homosexual n	 %	Total n	 %
Yes	26	68.4	2	66.7	2	28.6	30	62.5
No	12	31.6	1	33.3	5	71.4	18	37.5
Total	38	100.0	3	100.0	7	100.0	48	100.0

3.19 Legal Status of Files

Tables 65 and 66 show the legal status of the cases in our sample as of August 26, 1987, the date on which we finished studying Court files. They were classified as follows:

- inactive: file closed; in other words, sentence passed and fine paid or offender imprisoned;
- payable: sentence passed and fine payable within a certain time that had not yet elapsed when information was gathered;
- put over: case not judged and put over pro forma for trial or judgment;
- bench warrant: a bench warrant for failure to appear had not been served;
- prison warrant: a warrant issued for an unpaid fine, when the time has elapsed.

As we see in Table 65, there is a great difference between prostitute and client cases. The vast majority of client cases had been judged and the fines paid, whereas most prostitute cases were in limbo, either because they had been put over or because a bench warrant had not been served for failure to appear. Moreover, there are imprisonment warrants issued against several prostitutes for failure to pay fines.

TABLE 65

LEGAL STATUS OF CASES IN OUR SAMPLE AS OF AUGUST 26, 1987 BY INVOLVEMENT (N=270)

Involvement	Prostitutes		Clients		Total	
Status	n	%	n	%	n	%
Inactive	56	32.0	72	75.8	128	47.4
Payable	18	10.3	6	.3	24	8.9
Put Over	48	27.4	11	11.6	59	21.9
Default Warrant	18	10.3	4	4.2	22	8.1
Unpaid Fine/warrant	35	20.0	2	2.1	37	13.7
Total	175	100.0	95	100.0	270	100.0

TABLE 66

LEGAL STATUS OF PROSTITUTE CASES IN OUR SAMPLE BY TYPE, AS OF AUGUST 26, 1987 (N=175)

Type	Heterosexual		T/T		Homosexual		Total	
Status	n	%	n	%	n	%	n	%
Inactive	43	30.7	7	43.8	6	31.6	56	32.0
Payable	14	10.0	3	18.7	1	5.3	18	10.3
Put Over	43	30.7	2	12.5	3	15.8	48	27.4
Default Warrant	12	8.6	1	6.3	5	26.3	18	10.3
Unpaid Fine Warrant	28	20.0	3	18.7	4	21.0	35	20.0
Total	140	100.0	16	100.0	19	100.0	175	100.0

3.2 Profile of Our Prostitute, Client and Pimp Respondents

We interviewed 31 prostitutes and six clients. Obviously, these people are not representative of all prostitutes, given the way they were selected. Their knowledge of the milieu and of the period preceding Bill C-49 were the main criteria. In addition, some respondents were the only ones in their category that we were able to contact (arrested clients, for example). Several interviews were obtained by persistently hanging around in a particular restaurant or bar. This, for example, accounts for the high number of transvestites/transsexuals in our sample. They all regularly went to the same restaurant and nearly all were familiar with the period before Bill C-49, a priority selection criterion.

3.21 Prostitute Profile

3.211 Sociodemographic and Personal Characteristics

Among our 31 prostitutes were 19 heterosexuals, 7 transvestites/transsexuals and 5 homosexuals. Their average age was 28 (29 for the women, 24 for the men and 30 for the transvestites/transsexuals), which is older than the average in our file sample. This is because one selection criterion was that respondents be familiar with the period before Bill C-49 was enacted. Fewer young people could meet this criterion and, thus, are underrepresented. We should also note that one female prostitute was 40 and another was 45. This raised the average age in this group.

Most of the prostitutes were single, but 7 of the 17 female prostitutes whose marital status we knew, were or had been married. Eight out of 17 had children. Information on marital status contrasts with the data from our sample which suggested that 2 out of 135 female prostitutes were married, as shown in Table 47. This difference can doubtless be explained by the selection criterion mentioned earlier which, by meaning that prostitutes' are older also affects their marital status. The older they are, the likelier they are to be or to have been married.

Most did not finish high school and had no other occupation. Nearly all had engaged in prostitution for at least two years (28/31), and 13 had been in the field for over 10 years.

The majority of respondents (17/31) lived with a partner, and their sexual orientation was heterosexual (22/31). The majority of female prostitutes were heterosexual in orientation, and the same was true of the majority of homosexual prostitutes. As for transvestites/transsexuals, their heterosexual orientation confirms that they tended to be true or potential transsexuals (depending on whether or not they had undergone a sex-change operation) rather than transvestites. They said they felt they were women and were attracted to men as such. These potential transsexuals differ from transvestites who feel they are men and, as such, are attracted to women, or to men if they are homosexual. Thus among our transvestite/transsexual respondents there were no heterosexual or homosexual transvestites. They were all actual or potential transsexuals.

Other personal questions were asked at the end of the interview guide. As several interviews took place in a bar between clients comings and goings or after an evening's work and were cut short, we did not have enough answers to certain personal questions. These included family ties, job satisfaction, previous occupations and introduction to the trade.

According to what we were told, however, female prostitutes no longer have any family ties, or if they do, they are victims of intolerance. Most, having no steady paid work, saw street prostitution as an easy way of earning money quickly. Our women respondents told us they did not like their contact with clients and that the type of services sold, especially "blow-jobs", was distasteful to them.

3.212 Prostitutes and the Law

3.2121 Knowledge of the Law

Although several prostitutes at first claimed that they knew nothing about the new law, after talking for a few minutes with one of the researchers all showed they were aware of amendments to the *Criminal Code*. In their view, the main changes are, in descending order, that clients can also be arrested; that it is easier to arrest prostitutes, as less evidence is required to arrest them and get a conviction; and, lastly, that soliciting is now considered an offence. This is probably because until January 1986, prostitutes were nearly always charged under municipal by-laws.

To our respondents' minds, the law may be summarized as prohibiting a client and a prostitute from soliciting for purposes of prostitution. They make no distinction between paragraphs (a), (b) and (c) of s.195.1(1).

3.2122 Understanding of Police Enforcement

All our female respondents agreed that police enforcement is much tighter and more intimidating than before January 1986. It is tighter because there are more frequent patrols in unmarked cars and more intimidating because it is less visible. The use of "moralités" (vice cops) or "chèvres" (policemen posing as clients and policewomen posing as prostitutes) has become much more common since C-49. In fact, it is the main strategy known to our respondents. Whereas the district used to be raided by large numbers policemen who rounded up all the prostitutes on the street, the streets now are mainly invaded by undercover officers.

Those respondents who remembered the time before Bill C-49 thought that tourist rooms were still raided sometimes and, occasionally, a client and a prostitute were caught in the act and arrested.

3.2123 Criminal Record

(a) Offences Under s.195.1

We questioned our respondents about their record of offences under s.195.1. We did not ask any questions about other forms of crime for fear of arousing suspicion that might cut our interviews short.

As Table 67 shows, most of these prostitutes (83.9%) had been arrested at least once. Female prostitutes were arrested more often than homosexual prostitutes. This reflects their different treatment by police. We also note that the majority of heterosexual prostitutes were repeat offenders (62.9%). This is a higher figure than in our sample where 52.1% were repeat offenders. The difference in age, coupled with greater experience, accounts for this.

The majority of our respondents were arrested by undercover police officers. Usually the pseudo client approaches the prostitute, discusses a price, then leaves with her or says he will return a little later. Then the police step in and arrest her. Very few prostitutes resist arrest. They do not want to make things worse and moreover, they believe there is no evidence against them. Not until they reach the police station do they understand what has happened when they see the pseudo client go free.

TABLE 67

PROSTITUTES BY NUMBER OF ARRESTS UNDER S.195.1 AND TYPE OF PROSTITUTION, SINCE JANUARY 1986 (N=31)

Type	Heterosexual		T/T		Homosexual		Total	
Arrest Under s.195.1	n	%	n	%	n	%	n	%
Nil	3	15.7	1	14.3	1	20	5	16.1
1	4	21.1	4	57.1	3	60	11	35.5
2	6	31.6	2	28.6	1	20	9	29.1
3	5	26.3	0	0	0	0	5	16.1
4	1	5.3	0	0	0	0	1	3.2
Total	19	100.0	7	100.0	5	100	31	100.0

We calculated the total number of arrests for the 26 prostitutes arrested under s.195.1. Table 68 shows that the 26 prostitutes who were arrested at least once were arrested a total of 48 times for an average of 1.8 offences each. Three prostitutes were also arrested for violating district restrictions, once of them twice.

TABLE 68

TOTAL ARRESTS UNDER S.195.1 BY TYPE OF PROSTITUTION (N=31)

Type of Prostitution	Number of Prostitutes Arrested	Total Number of Offences	Average Arrests
Heterosexual	16	35	2.2
T/T	6	8	1.3
Homosexual	4	5	1.3
Total	26	48	1.8

(b) Pleas

Until the constitutionality of the law was challenged, most prostitutes pleaded guilty. They knew they had little chance of winning their case and they did not want to spend a lot of time embroiled with the law. Some thought that there was insufficient evidence against them and pleaded not guilty. Since spring 1987, those who have been arrested have pleaded not guilty on their lawyer's advice. Those who have been arrested a second time, however, have preferred to plead guilty to avoid an district restrictions. Most prostitutes are reluctant to move to a different district for that might cut their incomes by more than the amount of the fine.

Table 69 shows how the accused pleaded in the 48 cases. We see that in a large majority, prostitutes pleaded guilty. The nine cases for which the plea is not known are those of prostitutes interviewed immediately after arrest. At the time of the interview, they had not yet decided how they would plead.

TABLE 69
CASES UNDER S.195.1 BY FINAL PLEA (N=48)

Plea	Frequency	
	n	%
Guilty	30	62.4
Not Guilty	9	18.8
Not Known	9	18.8
Total	48	100.0

The nine cases in which the accused pleaded not guilty had not yet been judged. As with most not-guilty pleas, the cases had been postponed until after September 30, 1987, when a decision on the law's constitutionality was expected.

(c) Sentences

All 30 cases in which the accused pleaded guilty resulted in fines. As Table 70 shows, these fines ranged from a minimum of $250 up to $700. For a first offence, the usual fine was $250, for a second or third offence, it was $500. One prostitute was fined $700 for a third offence, but she had also been arrested for violating district restrictions. Since prostitutes live from day to day, these fines were considered steep, even though most knew they could easily raise the money through their prostitution activities. In our view, it is no doubt because they were always penniless, even though their minium weekly income is $500 as we shall see later, that they were so upset about fines.

TABLE 70

GUILTY VERDICTS BY CATEGORY OF FINES (N=30)

	Frequency	
Fines	Number	%
0- 99	0	0
100-199	0	0
200-299	5	16.7
300-399	16	53.3
400-499	0	0
500-599	6	20.0
600-699	0	0
700+	1	3.3
Not Known	2	6.7
Total	30	100.0

The total fines amounted to $16,750, with an average of $598.21 for the 28 cases in which we knew the fine.

3.22 Client Profile

We questioned six clients, two of them immediately after arrest. Five were married and the other was single. Their ages were 29, 34, 37, 37, 51 and 65, for an average of 41.8. Two had been obtaining the services of prostitutes for two years, two for ten years and one for 17 years. We were unable to obtain information for the sixth. All the clients had read in the newspapers that they too could be arrested. The two clients we saw immediately after they had been arrested, however, did not believe this could happen to them and did not know that there were women undercover officers. None had a criminal record in virtue of s.195.1.

3.23 Pimp Profile

We interviewed three pimps informally who had been in the business for two, three and 15 years respectively.

The first, who had been unemployed for two years, kept watch on his wife who needed protection and appreciated his presence. The second had "protected" (to use his term) as many as seven prostitutes before he was arrested for pimping. The charge was withdrawn for lack of evidence but, feeling he was under surveillance, he, nevertheless, gave up his activities. He dealt drugs. At the time of the interview, he had been back in the procuring business for two weeks and had already recruited a prostitute. The reason he gives for his success is that he did not exploit the prostitutes but really provided them services. He watched over them continually, ready to intervene if necessary, checking elapsed time elapsed and noting the license plate numbers of suspicious-looking clients. The last pimp owns a massage parlour. Two or three girls work for him and he changes his staff about every three months. Demand would justify increasing staff, but he refuses to do so to reduce the risk of conflict between prostitutes.

4. Comparison Between 1984 and 1987 Data

On the basis of the preceding pages, we can make certain comparisons between 1984 and 1987.

4.1 Prostitutes' Characteristics

Since their selection criteria and types of operation are different, the two groups of respondents cannot really be compared, except by noting disparities or similarities that cannot be attributed to changes in the two populations.

4.11 Types of Prostitution

In 1984, about 85% of prostitution was heterosexual, 10% was homosexual and 5% involved transvestites/transsexuals. In 1987, the percentages were 60, 15 and 25, respectively. Because the legal framework was stricter in 1987, it was harder to get interviews. We had to rely mainly on referrals from other prostitutes and fitting inot places where they gather (bars and restaurants). One of these places is a restaurant frequented exclusively by transvestites/transsexuals. Since they tend to be older (age 30), nearly all could remember the period before the law and, thus, met our criterion. This accounts for their high representation in 1987 (25%).

If, on the other hand, we compare our 1984 respondents with the 1987 file sample, which consists of 80% female prostitutes, 11% male prostitutes and 9% transvestites/transsexuals, we find the distribution corresponds more closely.

4.12 Age and Education

The two groups have nearly the same average age and education. Their ages are 27 and 28 and they dropped out of high school. As mentioned, it is impossible to compare other sociodemographic characteristics as our information is incomplete for one period or the other.

4.13 Years of Experience and Criminal Record

The 1984 prostitutes had been in the field for about six years at the time of the study, whereas the 1987 group had been prostitutes for nine years. This difference can be explained by our selection criterion and the high representation of transvestites/ transsexuals who, at age 30, were older than average.

While in 1984, some 35% of respondents had been arrested for prostitution, the 1987 figure was 85%. This is due to their longer time in the profession and increased police activity since Bill C-49.

4.2 Prostitution Practices

4.21 Known and Estimated Number

In 1984, police gave the number of known regular female prostitutes in all categories as 500 to 600, and the estimated number of street prostitutes as 1,200. In 1987, the estimates of all police officers ranged from 90 to 4,000 and those of supervisors from 300 to 500. The difference between the estimates (1,200 compared to 4,000) is enormous. It may be real, and it could be attributed to a change in the street prostitution scene, due to the law's enforcement and/or other associated factors (such as fear of AIDS). It may also be false. In 1984, police officers hoping for a new law might have inflated the figures to magnify the problem. In contrast, police in 1987 who wanted the law to be upheld, might have wished to cut figures to underscore its effectiveness. Since no systematic count was conducted in 1984, we cannot verify whether the difference between 1984 and 1987 reflects the truth.

4.22 Geographic Location

The prostitution scene changed somewhat during these two periods. In 1984, there were three principal districts and three secondary ones: the "Main", Lafontaine Park, St. Louis Square, St. Catherine near Drummond, Dominion Square and Mont Royal Park. In 1987, prostitution moved from St. Louis Square to Pine Avenue following changes to traffic signs in 1984. It also disappeared from Dominion Square and Mount Royal Park. The "Main" and Lafontaine Park remained poles of attraction while the area of St. Catherine near Drummond remained borderline (with three or four English-speaking prostitutes). Two new areas opened up following imposition of district restrictions: St. Catherine near Dézéry, a very borderline area and Champlain between Ontario and Sherbrooke. Police also noticed a growing number of girls hitchhiking on some of the city's main thoroughfares (Ontario, Papineau and St-Denis North).

4.23 Daily and Weekly Variations

There does not seem to be any difference as to which days of the week business is slowest. Saturdays, Sundays and holidays are still times of reduced activity. We do, however, notice a change during the day. Whereas in 1984 the busiest time was from 8 to 10 pm, in 1987 it was after 11:30 pm. This may be due to the fact that prostitutes believe police do not work at night, or the time when shifts change, which is wrongly thought to be midnight. Daytime prostitution had almost disappeared in 1987.

4.24 Prices and Incomes

Established prices did not vary between the two periods. They were still $50 for penetration, $30 for fellatio and $20 for masturbation. In 1987, however, because of shrinking clientele, prostitutes often agreed to provide the services requested for a lower price.

In 1984, the average weekly income bracket was $900 to $1,200. In 1987, according to our respondents, this had declined to an average of $500 to $600 per week.

4.25 Job Safety

In 1984, half of prostitutes had been beaten or raped by clients while plying their trade. In 1987, prostitutes and social workers stated that district restrictions, forcing them to solicit in less protected areas, had caused an increase in violence. Furthermore, they said that the lower quality of services offered and more frequent robberies of clients had contributed to changing clients' attitudes, making them more aggressive.

Police, on the other hand, do not believe that enforcement has had negative results, in general, on prostitutes' safety. In their view, heightened police presence and a reduction in drug traffickers have even been factors that made life safer for those who work the "Main". They agree, however, that the danger may be greater for those who leave the district.

4.26 Use of Pimps

There is no difference between the two periods, according to police and prostitutes. As a general rule, they believe prostitutes are too independent and clever to allow themselves to be exploited by a controlling pimp. In both studies, prostitutes said they despised pimps who they said worked mainly with out-of-town prostitutes.

5. Impact of the Law on Street Prostitution Practices

To evaluate the impact of the law on prostitutes', clients' and pimp's practices, we will refer almost exclusively to what our respondents said and to an analysis of classified advertisements. Very occasionally, we will also refer to the 1984 study.

5.1 Impact of the Law on Prostitutes' Practices

5.11 Impact on the Number of Prostitutes

It is very difficult to give a strictly scientific answer, since we have no empirical data for the period before the law took effect. Moreover, some of the information we have must be interpreted with caution.

5.111 Comparison of 1984 and 1987 Estimated Numbers of Regular Prostitutes

This comparison is almost unusable. The estimates we obtained in 1987 range from a minimum of 90 to a maximum of 4,000. As for the three main supervising officers, their approximations vary from 300 to 500. In 1984, estimates of the number of regular street prostitutes hovered around 300 to 350 (Gemme *et al.*, 1984, pp 20-21). If these figures are accurate, we would have to conclude that there were as many regular street prostitutes in 1987 as in 1984, if not more, and, consequently, that enforcing the law has not had the anticipated effect. The majority of respondents, however, including prostitutes, state that there has been a significant decrease since 1984. In view of these statements and the variations in the estimates, we conclude that approximate figures for a field such as prostitution are not very reliable.

We can, however, be sure of knowing the number of prostitutes arrested. We were able to confirm that between December 1, 1986 and September 30, 1987, 530 different female prostitutes were arrested. The police computer program did not allow us to find out the number of male prostitutes (transvestites and homosexuals).

5.112 Our Respondents' Outlooks and Statements

To summarize, most police officers and female prostitutes, all clients and both street pimps procurers maintain that street prostitution has decreased since January 1986. On the other hand, some police officers, some female prostitutes and all social workers believe the situation is unchanged. Two respondents think there has been an increase.

The decrease, it should be made clear, has occurred mostly on the "Main" and Pine Avenue, not in Lafontain Park.

Station 34 police do not believe that public soliciting in the park has declined. They could always arrest two or three male prostitutes a day and even pick their subjects. Male prostitutes are often under the influence of drugs and would not spot undercover officers. They need money, either to live or to pay drug debts. Moreover, the law has not been enforced systematically in the park, except during a crackdown in February 1986 and for the Park Project in summer 1987.

On the "Main", there have often been crackdowns, especially in 1987, when people speak of an "ongoing blitz". How much prostitution has declined ranges from 10% to 70%, depending on the respondent. The reason why most police officers believe it has declined significantly is, first of all, because they see fewer prostitutes on the street. One supervising officer even claims that downtown's image has changed. He thinks it is no longer a prostitution supermarket. The second reason to which police attribute the decrease is that arrests and fines deter occasional, new and American prostitutes. The latter now know they can not only be arrested, as was done under municipal by-law 333-3(a), but also pay heavy fines and even be held. Montreal may no longer have the same financial attraction. Indeed, our statistics on country of origin show that out in 140 cases of prostitution, three (2.1 %) involved Americans.

On the other hand, some police officers and all social workers are more inclined to believe the number of prostitutes has stabilized rather than dropped. They think this is because the arrests and sentences are not deterrents. They think prostitutes are more afraid of running out of money than of the police, because of drug habits or what they need to live. The fines are not considered high enough to discourage a prostitute. In any event, a prostitute considers arrest and fines as occupational hazards. These respondents also think that enforcing the law has simply changed prostitutes' habits as regards to hours, days, districts and time on the job. They think some prostitutes may drop out of the business temporarily but come back, sooner or later. As long as there are clients, there will be prostitutes and, in their view, the number of clients is still the same.

The experience of female prostitutes and transvestites/transsexuals confirms a decrease. It seems indirectly related to enforcement-related difficulties (tension, violence, detention and so forth).

Seven of our 31 female respondents have cut back significantly on their prostitution activities significantly, going so far, in one case, as to give up prostitution altogether. Whereas they used to work five or six days a week, they now go out only once or twice and do not stay in the district long. These respondents state they would probably not have reduced or stopped activities, if the work climate had been better.

For the other 24 prostitutes, enforcement has merely extended their working day or evening, adding extra days before a fine falls due. This is because their income has also decreased for the same period of working time. They report that the clientele has decreased and clients bargain more than they used to. Arrests do not seem a deterrent, as the vast majority of prostitutes who have been arrested go back to the street on interim release. Only one, upset at being held for three days before appearing in court, waited a week before going back to the district. Two female prostitutes and one male interviewed immediately after their arrest claimed that the experience was enough to make them leave the business. However, a researcher saw one of them on the street the following week.

According to our respondents, the fines are not deterrents, but have the opposite effect. The most usual fine of $300 is easy to earn before the due date. If the fine is higher, our respondents work more often, offer more expensive services than those requested or else steal from clients.

5.113 Tactical Information Report

One of the supervising officers gave us a copy of a report dated February 24, 1987 on the state of street prostitution in MUC territory. Entitled "Etat de la prostitution de rue sur le territoire de la CUM" (State of Street Prostitution within the MUC's Territory), it describes the prostitution districts outlined above and reports a significant decrease in street prostitution. It states:

> [TRANS]
>
> First of all, in districts known to be good for prostitution, we observed that the number of female prostitutes has decreased by about 65% to 70% by day, when we observe about five or six prostitutes, compared to 18 or 20 in the past, and 50% at night. Then, we observe about 50 prostitutes instead of about 100. This decrease is due, in part, to fear engendered by enforcement of section 195.1(1) of the *Criminal Code* and also the imposition on prostitutes who are recidivists of conditions such as not being found in certain districts that are good for prostitution.

As we see, the 1987 figures correspond more or less to our May and August counts of the same year. As for the 1984 figures, we have no means of checking their accuracy. Since, this is an internal report, however, written four months before our researchers met with the police and, since the supervising officer, had held his job in 1985, we are inclined to believe it. The same officer, by the way, estimated the number of female prostitutes at between 75 and 100 in an article in *La Presse* on January 18, 1986.

Furthermore, since significant geographic movement in the city were only observed in August 1987, it must be concluded that street prostitution has, in fact, decreased. By day, it has shrunk to almost nothing. Those prostitutes who have been active since January 1987 seem to be the women who, like several of our respondents, consider arrests and fines part of the job. Doubtless, all are repeat offenders and accustomed to a night in the cells, before appearing in court. As a result, arrests and sentences do not deter them.

Conclusion

Overall, nearly all respondents confirmed they have observed a decrease in street prostitution, especially during the day. But this could not be categorically quantified.

5.12 Impact on the Use of Vehicles for Relations

Since the law also provides for arrest of prostitutes and clients when sexual relations take place in a vehicle, we asked our respondents if they had observed a decrease in this type of prostitution. No police officer and no female prostitute had noticed any change since January 1986. According to them, 70% of female prostitutes', 100% of transvestites/transsexuals' and 80% of homosexuals' business is still transacted in vehicles. Soliciting from a vehicle is still as frequent.

5.13 Impact on Movement to Other Locations

All police officers have noticed some movement to other places, as we did also. As a general rule, these are only minor migrations of two or three girls at a time, except in August 1987, when a larger number of female prostitutes moved.

Until mid-July, everyone had observed that some of the girls from the "Main" were in the Drummond-St. Catherine district, or in Lafontaine Park, side by side with the homosexual prostitutes, or in a new location at the corner of Dézéry and St. Catherine. When conducting our counts, we observed as many as three female prostitutes Lafontaine Park, a new phenomenon. As for St. Catherine near Drummond, it was impossible for us to determine which of the four women we identified were former prostitutes from the "Main". We did not meet any prostitutes at the corner of St. Catherine and Dézéry.

It was also observed that, occasionally, some women hitch-hiked on St-Denis, St-Lawrence or Papineau northward and on Ontario, between Papineau and Berri. Most of the prostitutes outside the "Main" district, however, were one or two streets away from the district; for example, on St. Catherine west of Clark or east of St-Denis.

After mid-July, some comparatively larger-scale movement was observed. Prostitutes from the "Main" had returned once more to Pine Avenue which had been cleaned up in spring. We counted five on August 1. In addition, a new district of heterosexual and homosexual prostitution developed on Champlain, between Ontario and Sherbrooke. We counted as many as ten female prostitutes there at the end of August.

Our interviews with prostitutes confirm this shift in territory, which, we should emphasise, does not mean local prostitutes moving from Montreal to other cities, but movement within Montreal. Our female respondents did, however, observe a certain number of prostitutes from Toronto and more from Ottawa. About 20 of the latter seemed to have come to Montreal because of a district restrictions in their city.

Several of our respondents, tired of hiding in restaurants or bars whenever a patrol car drove by, moved to the smaller cross-streets and lanes of the "Main." There, contact with a client is faster, traffic is not impeded (drivers on these streets are generally looking for sexual services) and the parking lots are very close. The atmosphere there is also not so overcharged.

Four female prostitutes changed districts because of district restrictions. Only one, however, complied with this condition (she now works in Lafontaine Park), because a third fine would have been too high and she could not go to prison, as she had a child. These reasons alone moved her to plead not guilty, even though there was less money to be made in the park. The other three had moved a few streets away from the prohibited district and returned there, as soon as fears of another arrest subsided. They were, however, apprehended again.

Some respondents, unwilling to let an opportunity slip to find one or two extra clients, hitchhike when they move around town, something that did no used to be necessary.

We also interviewed a prostitute from Ottawa. After being arrested several times in that city and placed under a district restriction, she had decided to come and work in Montreal until her trial. She said she knew at least about 20 girls in a similar situation.

The male prostitutes in Lafontaine Park, for their part, have observed a growing number of girls coming to work in their district. Although they are open-minded, they do not approve of the change in clientele that is occurring. They could not move into other districts, for the "market" is in Lafontaine Park. The furthest they move is to the streets surrounding the park, if they are placed under district restrictions (for example, to Champlain south of Sherbrooke).

Conclusion

Everyone observed a small-scale movement to other places until August 1987, when a fairly important new district developed on Champlain.

Even though the majority of our female respondents have never worked in another district, they all think it is now possible to find a prostitute anywhere in the city. Although, at present, prostitution does not show stable concentration in one area in particular, several persons predict that within five years, "There will no longer be the 'Main', but all Montreal will be one big 'Main'."

To conclude, let us stress that, according to all respondents, most movement is not out of fear of arrest for violation of s.195.1, but to the district restrictions on repeat offenders who plead not guilty. Female prostitutes know that they can then be arrested on sight for breach of conditions. They also know that they be spotted by Station 33 police who maintain a list with recent photos of the prostitutes under district restrictions for their jurisdiction.

5.14 Impact on Movement to Other Kinds of Prostitution

To check how many street prostitutes had moved to other kinds of prostitution, one step we took was to question MUCPD and QPF police, female prostitutes, three owners of nude dancer employment agencies, pimps and hotel security managers.

According to our respondents, there has been a shift to bars, hotels, nude dancing clubs, massage parlours and viewing parlours. Although all informants confirm this, most were unable to assess its extent. Our attempts to obtain interviews with owners or receptionists of massage parlours, escort agencies and viewing parlours were fruitless. Only the owner of one small massage parlour and three owners of nude dancer employment agencies agreed to answer our questions. Consequently, the information obtained from respondents must be interpreted cautiously, not as regards to whether a shift took place, but as regards its extent. We are often dealing with anecdotal impressions that would, in fact, be hard to check in a context of secrecy and illegality.

We also wanted to check whether classified advertisements since 1985 would lead us to conclude that a change in types of prostitution had occurred. This was not so, as we shall see later.

5.141 Movement to Other Kinds According to Our Respondents

5.1411 Police

(a) Quebec Police Force

The other kinds of prostitution, principally massage parlours, viewing parlours, dancer-prostitute clubs and a certain number of escort agencies, are mainly found outside MUC territory where, except for Laval, there is no vice squad. Escort agencies are less common than in Toronto, Ottawa or even Quebec City. An article in *The*

Gazette, dated August 16, 1986, reports that there were 117 escort agencies in Toronto and 106 in Ottawa, but only 14 in Montreal.

As the territory outside the MUC is covered by the Quebec Police Force (QPF), we interviewed members of the vice squad. They have observed a significant increase in the number of massage parlours and dancer-prostitute clubs in recent years. The law does not, however, seem to have influenced this because the increases occurred between 1982 and 1985, as shown in Table 71, according to the QPF intelligence service. We see that from 1984 to 1985, the number of massage parlours identified doubled, from 13 to 26.

In 1986, the Quebec Police Force carried out "Operation Last Resort" in Laval and closed down 26 parlours and six dancer clubs. At the time of the interview in June 1987, there were only six parlours remaining, employing up to 25 women.

TABLE 71

NUMBER OF MASSAGE PARLOURS IDENTIFIED BY THE QPF IN THE MONTREAL REGION BUT OUTSIDE THE MUC, 1982 TO 1987

Year	Number of parlours
1982	5
1983	9
1984	13
1985	26
1986	1 or 2
1987 (June)	6

The popularity of other kinds of prostitution does not seem to be linked to the law, but rather with financial appeal. According to our respondents, the annual sales figure for massage parlours is around $10 million. They do not seem to have links with organized crime, but operate with a similar structure, using assumed names and investing illegal income in legal business.

But if the law has had no impact on the rise of other forms of prostitution, it may have encouraged streetwalkers of a certain type, the best-looking and those with more "class" than the prostitutes on the "Main", to switch to another type of prostitution. Police estimate that 15% of women arrested for other forms of prostitution are former streetwalkers. They do not know, however, whether this shift is only a stage in a career path or was caused by enforcement of the law.

(b) Montreal Urban Community Police Department

According to MUCPD respondents, agencies, parlours and offers of sexual services in classified advertisements have sprung up again in MUC territory since 1986. But several agencies' advertisements seem to involve only one or two prostitutes. This increase is thought to be due to a steady career change by street prostitutes, at least by those with the most "class".

The majority of respondents think that most street prostitutes could not work in escort agencies, massage parlours or other such expensive services. Their physical appearance, vulgarity, alcohol or drug abuse and lack of discipline (inability to obey rules or follow schedules for example) would make them undesirable employees. Moreover, the street is a home for many. They see their friends there and feel at home. They would have trouble adjusting to more formal surroundings where they would have to account for their activities.

Except for morality police from the Section d'Intervention de la Région Nord (SIR North), however, other police could not support their views with empirical data. Because street prostitution, in 1987, came after juvenile prostitution as a priority, Morality DCO and SIR Centre did not have time for long, expensive investigations that would yield fewer arrests. Consequently, they have little information on the background of prostitutes working in other kinds of prostitution.

From 1985 to 1987, however, police at SIR North ran operations aimed at agencies or parlours. In 1986, they ran 11 compared to six in 1985. The trend seemed to continue in 1987. We learned from the new commanding officer, who had held the view for two years, that his personal goal was to reduce the number of bawdy-houses in the northern area. The reason for the greater number of operations in 1986 was due not to a proliferation of bawdy-houses, but to fresh methods and new ways of gathering evidence. This enabled a larger number of such establishments to be closed.

A former investigator from SIR North told us that the majority of women arrested were, as they said themselves, streetwalkers who had moved to a different type of prostitution because of police harassment, because they were better paid, less likely to be arrested and safer. By contrast, according to another police officer who had also worked at Station 33 for several years, thought very few of the prostitutes arrested in the north region came from the "Main".

Police also suggested that clients, informed by newspapers that they could be arrested on the street, were taking their business to agencies, parlours or sought services through classified advertisements. Police, however, could not prove this theory. We cannot tell whether the increase in agencies or classified advertisements is due to an increase in demand or an increase in supply, or both at once.

5.1412 Dancer Employment Agency Owners

The three agency owners confirm that they have been receiving more job inquiries from street prostitutes since 1986. These women specifically ask to be placed in a club where they can dance and work as prostitutes ("both floors", in the language of the milieu; in other words, dance on one floor and engage in prostitution on another floor of the club or hotel. Two owners estimate an increase of 10% to 15% in this type of demand.

One of the agencies refuses to make this type of placement. A clause is even included in the contract whereby the dancer undertakes not to engage in prostitution during or after working hours. The owner believes, however, that 25% of dancers violate this rule. When he receives a complaint, he refuses to place the dancer again.

Another agency will place dancer-prostitutes the first time they seek work. It then sends the dancers to clubs or hotels outside Montreal that accept this type of dancer. The owner refuses to place them a second time because, he claims, the dancers abuse alcohol and drugs and behave in ways that displease the club owners.

The third agency offers a service specifically for dancer-prostitutes, as well as a service for real dancers. Its dancer-prostitute clientele is small, however, and most placements are made in Toronto, an English-speaking city.

5.1413 Hotel Security Managers

We interviewed two hotel security managers, including the president of the Association des Directeurs de Sécurité d'Hôtels, (The Association of Hotel Security Managers) to find out if they had observed any change since 1986 regarding prostitution. Both confirmed an appreciable increase (50%, according to the president) in complaints by hotel managers because of prostitutes who presumably came off the streets.

The complaints were about the constant presence of drugged or abusive prostitutes in the lobbies, bars or even bedroom corridors. Some prostitutes, eluding the watchful eyes of porters or reception clerks, even went to rooms to offer their services directly. Other complaints concerned clients who, after being drugged and robbed, blamed the hotel for allowing such prostitutes in.

Certain police officers were also able to observe street prostitutes during operations in the bars of Montreal's large hotels, following complaints by managers.

5.1414 Prostitutes

As mentioned earlier, two of the prostitutes, in addition to substantially cutting back on work, are no longer working anywhere but in bars. One of them states she would open a brothel, if she decided to return to the business regularly. By the same token, two male prostitutes are gradually leaving the street and working almost exclusively in lounge bars. They say that the drop in their income, which is already lower than women's, is acutely felt, and that they often have difficulty earning $50 an evening.

A large number of female prostitutes stressed that they sometimes picked up clients when they went to bars, but were not considering working there regularly and exclusively. Most clients try to get their services for nothing and it takes too long to complete a transaction. They are often forced to have a drink and talk with the client for a while, before the transaction. During heightened police surveillance, however, bars are still the best places.

Most of our respondents have never seriously considered moving to another form of prostitution. Those who have done so have gone back to the street, unwilling to hand over part of their earnings to others. Nevertheless, they noted that many prostitutes have left the street for other types of prostitution: massage parlours, nude dancing in out-of-town areas (where they can work both floors) or setting up on their own. A smaller proportion of them go to escort agencies.

5.1415 Pimps

The two street pimps knew prostitutes who had left the street for other types of prostitution: dancing in out-of-town places, massage parlours or advertising in newspapers. As for the massage parlour owner, he recruited his masseuses from classified ads and had observed a clear increase in prostitutes wanting to leave the street to work for him. Other owners of his acquaintance had also observed the same phenomenon.

Conclusion

If we base our conclusions on respondents' statements, including those of prostitutes, it seems clear that streetwalkers have moved to other kinds of prostitution, whether in bars, hotels, nude dancer clubs, massage parlours, escort agencies or viewing parlours or through classified advertisements. No one, however, was able to quantify the extent of this movement.

5.142 Movement to Other Kinds of Prostitution According to Analysis of Classified Advertisements

We attempted to check the extent to which a sustained attack on street prostitutes might have driven them into other kinds of prostitution, as several of our respondents supposed, by analyzing the classifieds in *Le Journal de Montreal*.

5.1421 Number of Offers of Sexual Services

We compared the number of classified advertisements for prostitution published on Wednesday, June 19, 1985, June 18, 1986 and June 17, 1987, in other words, six months before Bill C-49 became law, six months after and 18 months after. Because we were interested in possible openings for streetwalkers, we also compiled, for some tables, advertisements for sexually explicit telephone conversations, although these are not legally considered prostitution.

Table 72 shows the number of advertisements for each of these years. As can be observed, not only was there no increase, but on the contrary, a sharp decrease in the offer of services since 1985. The number of offers declined from 62 to 40 in 1986 and 39 in 1987, for a decrease of 37.1% from 1985 to 1987.

Table 73 gives us the variation for prostitution services only, omitting telephone conversation services. The number of advertisements declined from 49 in 1985 to 30 in 1987, a decrease of 38.8%.

TABLE 72

VARIATIONS IN THE NUMBER OF SEXUAL SERVICES ADVERTISED IN *LE JOURNAL DE MONTRÉAL*, 1985 TO 1987

Year	Number of Advertisements (All Sexual Services)	Variation from 1985
1985	62	-
1986	40	-35.5%
1987	39	-37.1%

TABLE 73

VARIATIONS IN THE NUMBER OF PROSTITUTION SERVICES OFFERED IN *LE JOURNAL DE MONTRÉAL* CLASSIFIED ADVERTISEMENTS, 1985 TO 1987

Year	Number of Advertisements (Prostitution)	Variation from 1985
1985	49	-
1986	26	-47.0%
1987	30	-38.8%

5.1422 Types of Sexual Services Offered

We also wished to discover any recent changes in the types of sexual services offered that might indicate movement away from the street by prostitutes. If, in 1987, for example, we found many more services offered individually ("Anita ‾ I'm yours any way you want. I'm waiting eagerly for you to call"), we could formulate the theory that the advertisers were former streetwalkers. Table 74, however, shows this is definitely not so. This type of offer did not exist in 1985 and still does not very much in 1987. Instead, the table shows that changes have occurred mainly in the area of massage parlours and home dancing agencies, whose numbers have dropped considerably, and escort agencies which have increased. Massage parlours declined from 39 in 1985 to 18 in 1987, for a decrease of 53.8%, dancing agencies declined from 7 in 1985 to 1 in 1987 for a decrease of 85.7%. But escort agencies rose from 1 in 1985 to 7 in 1987, an increase of 600%.

TABLE 74

VARIATIONS IN THE TYPE OF SEXUAL SERVICES OFFERED THROUGH CLASSIFIED ADVERTISEMENTS

Year Service	1985	1986	1987
Heterosexual massage	36	16	13
Homosexual massage	3	1	2
Viewing	2	4	3
Heterosexual escort	1	1	7
Homosexual escort	0	0	1
Home dancing	7	3	1
Conversation	13	14	9
Multiple services	0	1*	3**

*One agency offered both escorts and dancers.
**Two agencies offered escorts, dancers and masseuses. One agency offered dancers and masseuses.

5.1423 Geographic Location of Sexual Services

Table 75 shows the types of prostitution services offered in 1987, according to whether they are offered in the Montreal Urban Community (MUC) or outside it. We see that 70% of all services are offered outside the MUC. The figure rises to 88.9%, if only massage and viewing parlours (Table 76) are considered. This latter observation shows how effective MUC police are in controlling these services, but also how difficult it is to investigate escort agencies.

In conclusion, our analysis of classified advertisements did not enable us to substantiate the view that street prostitutes have moved to this type of service. The opposite view would be more defensible. Quebec Police Force officers stated that the number of agencies or parlours had decreased following their 1986 operations, but those operating in 1987 were larger, having absorbed the staff of the agencies or parlours that closed. This implies more structured organization, which is hard to reconcile with the personalities of most of the street prostitutes we, or our respondents, observed.

Also, most services offered are located outside Montreal and the milieu. As mentioned, the milieu is very important to streetwalkers. According to prostitutes and police, it is far from certain they would be willing to change type of prostitution and environment. The "Main" is not only a place of business but, more important, a home where prostitutes have their friends, restaurateurs, pushers, recreation and also, to some extent, security.

Thus, the following question has still not been answered: if the number of street prostitutes has really decreased and no new kind of prostitution business has yet been identified, where have they gone?

TABLE 75

LOCATION OF PROSTITUTION SERVICES IN 1987 (N=30)

Place	MUC		Outside		Total	
Year	n	%	n	%	n	%
1987	9	30	21	70	30	100

TABLE 76

LOCATION OF ESCORT AGENCIES AND MASSAGE AND VIEWING PARLOURS IN 1987 (N=26)

Place	MUC		Outside		Total	
Service	n	%	n	%	n	%
Escort	7	87.5	1	12.5	8	100
Massage	2	13.3	13	86.7	15	100
Viewing	0	0	3	100.0	3	100
Total	9	34.6	17	65.4	26	100

5.143 Movement to Other Kinds According to Newspaper Articles

In some of the newspaper articles analyzed later, mention is made of a certain movement toward other kinds of prostitution. For example, an English-language article about escort agencies, dated August 16, 1986, quotes a former street prostitute, as follows:

> Many of the women who work as escorts have left street prostitution for the relative safety and invisibility of the agencies. It is safer than the streets and you're protected from the bums and jerks says Sophie who calls herself a spokesperson for the rights of prostitutes (*The Gazette*).

5.15 Impact on Services, Prices and Incomes

According to prostitutes, it is not so much the type as the quality of service that has been affected by enforcement. Fellatio in a vehicle is still the service most in demand, followed by intercourse and masturbation. We must mention, however, that five prostitutes now refuse to perform services in vehicles or at least agree to them only occasionally. According to them, clients are more demanding and more aggressive, having been robbed or badly served by prostitutes who were either afraid of being surprised by police or were under pressure to get the money that they needed to pay their fines. All the prostitutes confirmed this situation of violence.

As for rates, they seem to have fallen unofficially since 1986. According to our research (Gemme *et al.*, 1984), the 1984 rates were $20 to $30 for masturbation, $30 to $40 for fellatio ("a blow-job") and $50 to $60 for intercourse. But these prices were standard. In 1987, according to police and prostitutes, a client can get masturbation for $20, fellatio for $30 and intercourse for $50, plus the price of the room. Prostitutes admit that it is harder to maintain prices than it was before 1986. Clients, aware that they too can be arrested, are fewer and bargain more. Prostitutes, tired of waiting, accept lower offers, but do not admit this to their companions, fearing their disapproval.

This situation obviously affects incomes which have also dropped. They vary with physical appearance, number of hours worked, weather, police enforcement and work method (soliciting the client or letting him solicit). Regardless of the factors, however, all prostitutes reported a decline in income over an equivalent period of time in 1986. The minimum income per working day fell from $150 in 1984 to $100 in 1987. Furthermore, the number of days worked fell in response to the successive enforcement sweeps. This decrease is due, among other things, to the long time spent by prostitutes inside cafés and bars to avoid arrest and to a drop in clientele. These are direct effects of enforcement.

5.16 Impact on Safety

According to police, enforcing the law has not, as a general rule, had a negative effect on prostitute safety. They think the opposite is true. Prostitutes and social workers, however, disagree.

The police believe there have always been and will always be maniacs and men who rob prostitutes. Since the law, however, there have been more police on the street, patrolling or in plain clothes, so prostitutes would feel less endangered. Moreover, as the milieu has bred less crime with declines in the number of prostitutes and drug dealers, it should be safer. Some think, however, that if prostitutes scatter and work in isolation to escape police surveillance, their safety will be threatened. When they work on the "Main", they are all fairly close together and can help one another.

Social workers and prostitutes are convinced the milieu is more dangerous than now than before the law. Five prostitutes had fallen victim to physical or verbal violence more often than before 1986 and the others knew colleagues who had been beaten or robbed. This increased violence is attributed to district restrictions and a change in attitude among clients. District restrictions force prostitutes to hide in small, dark streets or lanes near the "Main" area to avoid being arrested for breach of bail conditions. When they do this, they move away from the restaurants and bars where they can get help, if needed. There is no guarantee that residents would help a prostitute. As for clients, we mentioned earlier that some of them seem to have become more violent, after being robbed or drugged or receiving poor-quality services.

Paradoxically, several prostitutes stated they nevertheless accepted clients who "looked suspicious", because the clientele had shrunk. If they are too selective, they are liable to wait a long time for the ideal client, in other words one who will respect the agreement reached and is not an undercover officer.

There is no refuge in the milieu exclusively for female prostitutes who need help. The Alliance for the Safety of Prostitutes used to distribute bad trick sheets in 1986, but it is being completely reorganized and its volunteers have not been seen on the street for some time. The way female prostitutes protect themselves is by carrying a knife or relying on male or female friends or pimps to keep their eyes open. Prostitutes have noticed an increase in co-operative spirit. They warn one another more often than in the past about a client who might be an undercover officer or violent.

5.17 Impact on Work Methods and Atmosphere

5.171 Teamwork

No one has really noticed a change in teamwork. When streetwalkers are not forced to leave a district following a district restriction, they usually work in groups of two or three. Only homosexual prostitutes work alone, although it is not unusual to find some of them in a group.

5.172 Strategies to Avoid Arrest

Police and prostitutes listed the strategies used to avoid arrest. One of the most common is to talk longer with the client in the belief that a police officer will try to cut the conversation short, arousing the prostitute's mistrust. This practice is often used by homosexual prostitutes. There is also a belief among prostitutes that a police officer cannot lie. Thus, they ask a dubious client if he is a policeman. Many also let the client approach them and speak first. The traditional "Sors-tu?" (Do you want a date?) seems to be used less often. Prostitutes who have identified undercover agents or unmarked cars pass the word along. Some check the car glove compartment for a radio or a weapon. Others ask higher than average prices and suspect any client who fails to bargain. Most seek refuge inside bars or restaurants when police are reported in the area.

In addition, prostitutes seem to have tried to adjust to police schedules. Believing that police finished their work at midnight, they extended their own until late at night. Also believing Saturday was a day off, they worked Saturdays. This strategy did not turn out as expected, however, for police adjusted their schedules accordingly.

To avoid tailing, prostitutes often check behind the car and have the client take detours or lead him to an underground parking lot, such as the one at Place des Arts. The prostitute also warns her client that if they are arrested, she is a friend of his. She sends the client into the tourist room or parking lot first and follows him, if she has not noticed anything suspicious.

Prostitutes seem to favour regular customers who make appointments by telephone or always go to the "Main" at the same time. A look confirms there is no danger and the prostitute joins the client at the usual place.

In response to ongoing police enforcement, some prostitutes of both sexes take more time to establish contact and conclude an agreement. Most approach a client less directly and are less brash and conspicuous. These seem to be other changes related to enforcement. The other stratagems were already in use before the law, although less often. Prostitutes were less afraid of being arrested under a municipal by-law and the lower fines did not bother them. Moreover, there were no detentions or conditions of bail.

Despite these strategies, however, police consider that their undercover work has become an unstimulating routine as agreements are easy to reach with streetwalkers.

5.173 Work Atmosphere

We and the prostitutes found the work climate was growing "heavier", or in other words, laden with tension, as our observations progressed. The many blitzes and pre-appearance detentions and the district restrictions made prostitutes more nervous, fearful and aggressive. Many, driven away from St. Catherine, suspected the others of not sending their clients to where they were (on a cross-street or a few blocks from the area). Prostitutes were always on guard and much less relaxed. This seems to be another result of the law.

5.18 Impact on Use of Pimps

Opinion is divided on this. According to our prostitute respondents and the two street pimps, very few prostitutes have resorted to pimps following enforcement of the law. Of the 19 female prostitutes, only four had a pimp. Three of the these had one before the law was passed, as the pimps were also their boyfriends. The fourth had turned to a pimp following troubles with the law. Her fines were too high. She had borrowed from a loan shark who became too demanding and even violent. She asked for help from a pimp in the milieu and, since then, she has worked for him. The three prostitutes confirmed that they needed their pimp's help more than before the law. They relied on him to identify undercover police and protect them from difficult clients.

On the whole, however, prostitutes prefer to be independent, recognizing that pimps are exploiters. They believe beginners are more vulnerable and might succumb to the honeyed overtures of a seductive pimp, or the intimidating approaches of a dominating pimp who frightens them. The two street pimps do not believe enforcement has had a noticeable effect on resorting to pimps. They also think that "Quebec-style" pimping is mainly based on a relationship, or a need to get out of a tight place.

Half of police respondents agree. In their view, pimping has not been a Quebec custom since the women's movement made itself felt. Most police estimated there were about 30 real local pimps, that is, men who controlled female prostitutes by force and/or drugs.

On the other hand, they estimate that 80% of prostitutes have a pimp, and only half of them are boyfriends. One officer is even convinced they are on the spot. During an anti-client operation in November 1987, policewomen disguised as prostitutes were "offered protection" in exchange for money. They were even threatened for standing on "the protector's" street corner. In this connection, one of the policewomen reports she was approached by pimps several times while working undercover. Everyone considers, however, that this is not a consequence of the law and that this situation has always existed, even if it is hard to prove. Very few prostitutes would turn in a pimp.

The majority of our respondents did not believe enforcement would make prostitutes turn to pimps. One of the policemen even put forward the opposite theory; that the law allowed some prostitutes to free themselves of their pimp. As fines became too high and district restrictions reduced income, pimps would prefer to drop their prostitutes and recruit new ones without a criminal record.

It seems certain that the situation in Lafontaine Park is unchanged. As was the case before the bill, homosexual prostitutes do not have pimps.

5.19 Impact on Criminal Activity Associated with Prostitution

According to our respondents, crime other than prostitution has decreased overall in the Station 33 district, but has increased among prostitutes who have stayed in the business, despite enforcement.

For supervising officers, the decrease in prostitutes in the "Main" district has contributed to a decrease in car break-ins, thefts from clients and assaults on prostitutes and clients by underworld types. They cannot attribute this solely to the fight against prostitution because the fight against drug dealers was stepped up at almost the same time. This was especially true on St-Denis Street, in an area next to the prostitution district. The first district restrictions used by the courts were, in fact, imposed on drug dealers. As a result, it is impossible to know precisely how much each of these campaigns has helped reduce the crime rate.

Our prostitute respondents, on the other hand, think there has been a fairly substantial increase, some citing a factor of 20, in the number of clients robbed. Five of our respondents have robbed their clients; two because the opportunity was too tempting, one to pay a fine that was coming due, a fourth as a regular practice to pay for her drug habit. The cost of her drug habit has doubled since 1986 because the tension on the street is so great. And she steals in order to pick up a basic guaranteed income.

> I need $400 a day for my coke habit. Now it's harder to make money. It used to be the client who waited. Now I often have to spend an hour on the corner before finding one. Now I make the client spend as much money as I can. But if he is too cheap and I don't like his looks. I won't hesitate to pick his pockets.

Some prostitutes suggest that more of them are now selling drugs to earn extra income. Mainly, this business allows them to pay for their own habits which, in many cases, seems to have increased since prostitution has dropped off.

All our respondents, both police and prostitutes, think prostitution is still not tied to organized crime. There is probably more money to be made in poker machines and drugs. Some think, however, that when the situation becomes hopeless for prostitutes ¯ in other words when the law is ruled constitutional ¯ they will almost be forced to link up with criminal elements to guarantee protection and carve out new territories. This is said of both heterosexual and homosexual prostitution. That is when organized crime may step in. These are only theories, however. Police think that we are now going through a transition period and the situation will be clearer when the legal challenges have been resolved.

5.2 Impact of the Law on Clients' Practices

5.21 Soliciting Techniques

Everyone, including the six client respondents, confirmed that, as a general rule, soliciting techniques have not changed. At most, clients check a little more carefully for the presence of police. Some, however, have begun leaving their car in a parking lot and soliciting on foot, considering that this attracts less attention. Others always solicit the same prostitute to avoid undercover police. Some solicit through restaurant windows, knowing that prostitutes seek shelter there more and more to escape enforcement. Undercover police do not go into restaurants to be solicited.

5.22 Number of Clients

The reasons why clients keep soliciting streetwalkers have not changed. That is why many clients come back to the street despite the law. First, they are sure to find what they want without loss of time or other complications and, often, more cheaply than if they solicited in a singles bar. Second, they can choose a person who appeals to them which is not always possible with escort agencies. Last, it is less embarrassing to solicit on the street than in a massage or viewing parlour.

If we are to believe our prostitute respondents and the two street pimps, however, a fair number of clients seem to have been influenced by the law. Prostitutes have fewer clients than in a similar period before the law. They attribute this decrease to fear of AIDS following the coverage of the two arrests of Donna Newman, a prostitute who carries the AIDS virus, or to fear of being robbed following a bad experience, or from hearsay, or fear of being arrested following news coverage of crackdowns on clients.

Among police, the belief is that it is too early to assess the law's impact on clients. Few clients had been arrested up to July 1987. However, as the number of operations aimed at clients has increased since then, police believe that summer 1988 is when the law will really be felt. Nevertheless, most believe the law has deterred clients who have been arrested, especially if they were only occasional clients (whether locals or visitors). Everyone stated that most clients are shaken by the arrest and charging process; being arrested right in the street, being taken down to the station, having their pictures taken, being isolated in a cubicle (while awaiting an identity check and the charge to be written up) and having the charge read in public. All these are seen as procedures that may discourage clients from doing it again. Moreover, since half are married, they go through the whole process in the fear of their wives learning of their infidelity. Indeed, we were able to observe the impact of the arrest procedure with our own eyes. Two clients were crying when we interviewed them. They were sure they would receive a summons at home.

On the other hand, some police officers believe the likelihood of a client being arrested again is too slight to discourage him from repeating the offence. The number of clients is too great and the number of undercover policewomen too small. Furthermore, according to one supervising officer, when a client is "on the prowl," nothing will stop him. In the officer's view, there would have to be ongoing enforcement which is impossible, given budget and staff.

As for homosexual clients, they have not yet been affected by the law, since no operation has been directed against them. As the priority is cleaning up St. Catherine, every effort is concentrated on that.

5.3 Impact of the Law on Pimps' Practices

It is very difficult for us to elaborate on this matter, for we interviewed only two street pimps, and police have little information. This matter gives rise to few cases. They have few complaints and prostitutes refuse to testify against their pimp, when they have one.

The two pimps confirmed, however, that the increased need for safety because clients were more violent justified their involvement with prostitutes. They also confirmed that, as a general rule, the pimps they know offer very few services to prostitutes, and are content to live at their expense. This, they say, is why resorting to pimps is not popular with Quebec women.

On the other hand, they confirm, as do police, that prostitutes from elsewhere in Canada or the United States nearly always have a pimp, who is often black.

6. Recommendations as to the Law

6.1 Prostitutes

It goes without saying that our respondents are unhappy with the existing legislation, believing they provide a service to society through an activity involving consenting adults. They go on to say that, in any event, prostitution will always exist, regardless of existing laws. Table 77 presents their recommendations and, although they have no illusions as to the likelihood that these will be implemented, they hope for a little more flexibility by government.

TABLE 77

PROSTITUTES' RECOMMENDATIONS REGARDING STREET PROSTITUTION AND BROTHELS (N=31)

	Recommendations				
Type	**Decriminalize Fully**	**Decriminalize Partially**	**Legalize Fully**	**Legalize Partially**	**Total**
Street Prostitution	5	8	18	0	31
Brothels	0	0	27	4	31

The advantages they expect from full legalization are greater safety, better venereal diseases prevention, the opportunity to practise a trade without being in a sordid environment, stable prices and reduced exploitation by pimps. Some are not sure they would leave the street to work in a legalized brothel, but if that was the only form of prostitution allowed, they would all be ready to comply. We should make it clear that legalization (full or partial) corresponds, according to the picture drawn by our respondents, to decriminalization accompanied by regulations (prices, etc.) rather than control by the federal government.

There are several main arguments for the other forms of legislation legalizing prostitution under certain conditions. Those who opt for decriminalization with conditions would continue cracking down on prostitutes who cause a nuisance (noise, theft, violence and so forth), while allowing the others to work in peace. Conditional legalization of brothels is preferred by those who believe full legalization would attract too many women to the trade, inevitably lowering prices. They would also like government regulation on the percentage that would be paid to brothel owners. This would avoid exploitation. Last, those for whom street prostitution is a private sector business think government should not meddle and opt for full decriminalization.

6.2 Clients

All clients oppose the present law which allows them to be arrested. They maintain that its only effect is to break up marriages which, in some cases, resorting to prostitution helped some people avoid. To guarantee better quality of service, standard prices and relations without risk of STDs, they all support full legalization of prostitution.

6.3 Pimps

Two of our respondents advocate full legalization, citing the benefits to the prostitute. A fixed schedule allowing for a more normal social and personal life, job safety and medical supervision are other benefits they see in legalization.

The other pimp favoured conditional decriminalization. He wanted women to be allowed to work freely, but wanted harsh sanctions against violent or exploitative pimps.

V IMPACT OF THE LAW ON JUVENILE PROSTITUTION

To get a view of juvenile prostitution, enforcement and the law's impact, we interviewed 14 people: two police supervisors, two Youth Division police investigators, the Juvenile Court liaison officer, a Crown attorney from the same court, two specialists from the Youth Protection Branch, two social workers from two social services offices of the MMSSC (Metropolitain Montreal Social Services Centre), a defence lawyer and a Juvenile Court judge and Fraser Committee member, the coordinator of the minor prostitutes intervention project (PIaMP) and one juvenile prostitute.

1. Portrait of Juvenile Prostitution

1.1 Estimate

All respondents acknowledge that juvenile prostitution exists and is a serious problem. No young person should be reduced to this activity to survive financially or emotionally. But not all agree on the extent of the problem. Everything seems to depend on the definition. Police define juvenile prostitution more narrowly than social workers. They do not include in it a young person who occasionally provides a sexual service in exchange for affection, a meal or candy or $0.50 offered by a classmate in a schoolyard. Social workers, however, do include these activities. That is why we got estimates ranging from 80 to over 5,000 for the City of Montreal alone. One of the social workers claims that in disadvantaged neighbourhoods, at least 20% of girls and 15% of boys engage in prostitution before the age of 14. In *Les Enfants de la Prostitution (Children of Prostitution)*, published in September 1987, authors Michel Dorais and Denis Ménard report:

> [Trans]
>
> A few years ago, the figure of 5,000 young prostitutes, both girls and boys, was put forward for Montreal and its suburbs alone. This estimate was close to those of authorities in large US cities, who state that at least one young person in 100 engages in prostitution regularly. These figures are now being revised upward, especially if we include the number of young people who act as prostitutes occasionally (Dorais and Ménard, p. 34).

Several respondents quoted this figure of 5,000, first used in 1980-81.

At the other extreme, some respondents estimated that no more than about one hundred young people prostitute themselves regularly. They do not include occasional prostitutes who exchange sexual services for a meal, a place to stay or parties in arcades. They do not see this as real prostitution and they cannot estimate its extent. One respondent, who had earlier used the figure of 5,000 in the media, cut this number down to 300 in our interview. Police do not know more than about 50, and they believe that if there were many more, they would know it. There would be complaints and the few juveniles arrested would mention it.

After all these interviews, we are in no better position to give a realistic estimate, as police arrest few juvenile prostitutes (about 30 in 1987). These cases are referred to the Youth Protection Branch and are not identified as prostitutes, but as young people with serious behaviourial problems. No distinction is made between runaways, truancy cases, resistance to authority or drugs and no statistics are compiled. Thus, the number of juvenile prostitutes is given as the number each person involved has encountered and whatever he may know about the number his colleagues meet.

The only consensus we can find in our interviews is that juvenile female prostitutes do exist, but are rarely to be found in places where adult prostitution goes on. This would explain why the police do not know many. Furthermore, everyone agrees that the law has had no impact on the number of female prostitutes. Only a change in young people's socioeconomic or psychosocial situation could decrease the number.

1.2 Location

Apart from a few who try their luck in the adult prostitution districts, juveniles are to be found mainly in washrooms in commercial places, subway stations or adult-organized networks. One of the respondents also learned of a small number who had moved from the street into massage parlours and dancer clubs. These young people use identity papers giving a false age. That is the only possible impact of the law mentioned to us.

2. Analysis of Enforcement Against Juvenile Prostitution

Police arrested only 27 juvenile prostitutes from January 1 to September 30, 1987. They told us that juvenile prostitution is their first priority, even though they do not arrest many. As soon as they receive a complaint, they check it out. During a blitz, they pay attention to prostitutes who look too young. Most arrests are made by an undercover agent, as in the case of adult prostitutes.

In addition, to ensure juveniles are not in dancing clubs, police have set up "Operation Underage Dancers". It involves maintaining an up-to-date list of the identities of all female and male nude dancers operating in clubs within MUC territory.

At each of the 24 MUC police stations, two investigators are assigned to this operation. In addition to enforcing alcoholic beverage regulations in clubs, they must locate all the places that might hire nude dancers of either sex and visit them regularly every week. The owners of these establishments may be investigated at any time and are liable to lose their licenses, if a juvenile is found on the premises. Accordingly, they are very cautious when hiring staff. That is why, according to police, very few juvenile prostitutes have been arrested in these places.

Another factor that could account for the small number of arrests is that police do not lay charges against young people when they break up a ring. They prefer to charge the adults responsible with gross indecency and use the young people as victim-witnesses. These young people are also reported to the Youth Protection Branch as sexual abuse cases).

Finally, apart from Morality DCO and SIR Centre, underage prostitutes are referred to one of the Youth Division investigators who are to be found in every station, including 33 and 34, where prostitution is concentrated.

When a young person is brought to the station for prostitution, the investigator makes him write a statement on his prostitution activities (not a charge). Following this statement, he contacts the Director, Youth Protection, who will decided whether the young person should be released the same evening or taken to Juvenile Court. If he is released the same evening, the investigator does not charge him but writes a statement for the Youth Protection Branch, so that the young person will be taken in hand by a social worker. If, on the other hand, he is not released, he is taken to Juvenile Court where the complaint is assessed by a Crown attorney who decides whether to prosecute. If the Crown attorney decides to keep the case in the court system (if the young person comes from another province, for example), the accused will be charged under s.195.1. Otherwise he will be assigned to a social worker who will suggest alternative ways of dealing with his problem.

As a general rule, investigators ask for the young person to be looked after so as to deal with other, more serious problems (running away, drugs and so forth), hoping that a social worker will follow up faster. Prostitution is not considered a priority by the Youth Protection Branch in the total range of problems. Cases of sexual abuse, child neglect, rejection by the family and so forth are more important.

Thus, few prostitutes are charged under s.195.1 and prosecuted under the *Young Offenders Act* or the *Youth Protection Act*. As we shall see, only 18 offences were brought to Youth Court under the *Young Offenders Act*. The other cases, whose number cannot be determined, were referred to the Youth Protection Branch.

Finally, we should make it clear that young people charged under s.195.1 were arrested in known sectors (the "Main" or Lafontaine Park) by Morality DCO or by SIR Centre which do not have "Youth Division Police".

2.1 The Youth Protection Act

Quebec has a *Youth Protection Act* (Bill 24) which covers young people under 18. One of its objectives is to keep juvenile delinquency, including prostitution, out of the adult legal system. Instead of involving the courts, involvement by social workers is preferred. Each region has a Youth Protection Branch (YPB) to which anyone can report cases for which protection seems necessary. Through its workers, the YPB assesses the case and recommends any measures necessary. They can range from simply meeting with a social worker to withdrawing custody of a youth from the family and placing him in a specialized facility.

As we explained, police have discretionary power. They can, through the Crown attorney, deal with a case of juvenile prostitution as a criminal matter, or through the YPB, they can take it out of the usual legal system. Prostitution cases are referred to the YPB under s 38(h) of Bill 24 on "behaviourial disturbances" and are most often described as another type of problem, such as running away or drugs,

Most police officers consider juvenile prostitutes as victims in need of protection and rehabilitation rather than offenders. That is why only 18 young prostitutes had been brought into Youth Court through the *Young Offenders Act* as of September 30, 1987.

Thus, because of Bill 24, enforcement of the law has not brought more juvenile prostitutes of either sex into the courts.

2.2 Police and Court Statistics

Table 78 breaks down the 26 offences under s.195.1, as of September 30, 1987, by age and sex. The other offence related to a 17-year-old client whose file was closed without further explanation. We note that most young people against whom police start proceedings are close to the age of majority. Police consider that, in these cases, referral to the YPB is pointless.

TABLE 78

OFFENCES UNDER S.195.1 BY AGE AND SEX OF JUVENILE PROSTITUTES, JANUARY 1 TO SEPTEMBER 30, 1987 (N=26)

Sex	Girl		Boy		Total	
Age	n	%	n	%	n	%
14	1	4.5	0	0	1	3.9
15	2	9.1	0	0	2	7.7
16	4	18.2	1	25	5	19.2
17	15	68.2	3	75	18	69.2
Total	22	100.0	4	100.0	26	100.0

These 26 cases progressed as follows:

3: failed to appear and a bench warrant was issued against them;
9: pleaded guilty, including two cases for the same person;
3: put over pro forma;
8: referred to the youth protection branch, including two cases for the same person;
1: file closed without further explanation;
2: no information (result had not yet come back to the liaison officer).

For the nine cases in which a guilty plea was recorded, the sentences were as follows:

1. $10 fine
2. $50 fine
3. $200 fine (for a sixth offence)
4. 20 hours of community work
5. probation until age 18
6. two weeks jail, one year probation and an order to return to Vancouver

7.and 8. two weeks jail and one year probation for two offences that were the person's second and third

9. one month jail (for a fourth offence).

The eight cases referred to the YPB were reassigned to the appropriate social service centres: two to the Metropolitan Montreal Social Services Centre (French speaking), three to the Ville-Marie Social Services Centre (English-speaking), one to the Hull Social Services Centre one (with two cases) to the Richelieu Social Services Centre. These centres have their social workers follow the cases up, in accordance with priorities.

2.3 Insights of Social Workers or Specialists in the Field of Juvenile Prostitution

Among those we interviewed was a former member of the Fraser Committee and the coordinator of PIaMP, the action program for juvenile prostitutes, which is the only parallel agency concerned primarily with juvenile prostitutes.

All our respondents think there is a juvenile prostitution problem and police are not doing enough to arrest juveniles' clients. The former Fraser Committee member repeated her recommendation that these clients be punished more severely than those of an adult prostitute. Instead of being a summary offence, soliciting a juvenile should be an indictable offence.

On the other hand, our respondents praise the efforts of police to keep juvenile prostitutes out of the regular legal system. They believe that by calling on the Youth Protection Branch, young people are given a better opportunity to find alternative solutions than if they were charged under the *Young Offenders Act*. A person convicted as a young offender is usually sentenced to a fine or probation which would not discourage him from going back to the street. Bill 24, in contrast, lets social agencies, such as reception centres and group homes, to take charge of the young person, if necessary.

However, our respondents, notably the coordinator of PIaMP, complain that there are not enough resources directed towards the living problems of young female prostitutes. There is a need for group homes with a different philosophy from reception centres. Some workers think the social services now available are not flexible enough and are too bureaucratic to be effective. Social workers ought to come out of their offices and be available at the times and on the days when young people need them.

Finally, the coordinator of PIaMP emphasizes that services for juvenile prostitutes must be offered by genuine community agencies; in other words, administered by people in the community rather than bureaucrats. Such agencies should have a philosophy based on helping a young person move ahead on his own path to personal growth at his own pace, instead of an approach geared to removing the youth from the environment of prostitution as quickly as possible.

VI THE LAW AND THE COMMUNITY

1. Impact of the Law on Services Offered to Prostitutes by Social and Medical Agencies

We wanted to determine whether enforcement had created problems for prostitutes which would have justified a demand for new medical or social services such as shelters, emergency centres, help with finding different work, sexually transmitted disease clinics geared to prostitutes or special services in the courts, in jail or after release.

We interviewed representatives of the organizations already identified in whole or in part with prostitution (Alliance for the Safety of Prostitutes and others) and organizations likely to be in contact with prostitutes, such as social services in the courts.

1.1 Respondents' Characteristics

We met with two representatives of the Alliance for the Safety of Prostitutes (ASP), a representative from the Elizabeth Fry Society, one from the Metropolitan Montreal Social Service Centre (MMSSC), Municipal Court Justice section, the head doctor of a community health department located in the heart of the prostitution area, and the coordinator of PIaMP.

1.2 Type of Clientele and Services Offered

(a) Alliance for the Safety of Prostitutes

The Montreal branch of ASP was the only organization serving an adult prostitute clientele exclusively. Modelled on ASP in Vancouver, Calgary and Toronto, it was founded in Montreal in the summer of 1985. It had about ten volunteers, ex-prostitutes or friends of prostitutes. ASP offers three main services: it distributes "bad trick sheets" which identify clients who may be violent, thieves or undercover agents; it makes the public aware of the poor social conditions which lead to prostitution and the difficulties prostitutes experience and it refers prostitutes to independent resource groups.

Bad trick sheets were distributed every two weeks in the fall of 1985 and winter of 1986 (Appendix 26). But in the summer of 1986, they were only distributed every two months, after a drop in the group's activities. The last one was put out in May 1987.

ASP also organized a demonstration on St. Catherine on January 17 1986, the day after the first arrests resulting from the new section 195.1, to protest the bill (Appendix 27).

ASP had plans to set up a drop-in centre, but the loss of one of the principal organizers and a lack of funds has meant that operations have been suspended for an indefinite period.

(b) Elizabeth Fry Society

Established here in 1977, this society deals with adult females who are in trouble with the law. Some are prostitutes, but not many because the society's paralegal aid services are only offered at the Court of Sessions of the Peace and prostitutes are tried in Municipal Court. Some prostitutes contact the society through creative workshops and discussion evenings organized at the Tanguay Jail. However, there have not been many jail sentences handed down since January 1986.

The society also set up Thérèse Casgrain house in 1980, the first community halfway house for female ex-prisoners. Four or five prostitutes have spent some time there since 1986. The house's goal is to help female ex-prisoners re-enter society by helping them through such services as training, drug and alcohol rehabilitation and job searchs.

(c) Justice Division, MMSSC

The MMSSC's social workers have an office across from #1 Court where, among others, adult prostitutes appear, whether or not they have been jailed. They prepare pre-sentence reports, or refer some jailed prostitutes who ask to shelters, drug rehabilitation centres and so forth. In such cases, the social workers do not keep a file open; they serve only as referral agents. In all, prostitutes make up less than 5% of their cases, about 15 since January 1986.

(d) Community Health Department, Hôpital St-Luc

The CHD does not specifically serve prostitutes. They and their clients are part of a larger clientele with sexually transmitted diseases. The department has set up a network of clinics with the name Contac-T-Nous which operate seven days and evenings a week. The network has about 40 doctors who, along with their other training, have learned to treat fringe groups (such as homosexuals, prostitutes and clients of prostitutes) quickly and confidentially. The department's laboratory is even open until 10:30 pm to meet the needs and schedules of this particular group. Our respondent estimates that the Contac-T-Nous clinics regularly treat about 150 prostitutes, about 15 of them street prostitutes. These are perhaps fewer in number because they are unaware of the service.

(e) Projet d'Intervention auprès des Mineur(e)s Prostitué(e)s (PIaMP)/Minor (Prostitutes Intervention Project)

PIaMP is an alternative, not a complementary community action group. There are four full-time employees supported by a team of volunteers. They have recently moved to the "gay village". This office also serves as a telephone message centre and postal drop.

In 1986, regular contact was maintained with 85 young people, 47% of them aged 12 to 17 and 53% aged 18 to 24. Of these 85, 51 (60%) were seen officially for prostitution. Twenty-four were juvenile prostitutes. The others were mainly homeless young people. In addition, the organization has informal contacts with about 200 other young people on the street, according to the coordinator.

PIaMP favours an approach to community action based on working in the street and oriented towards providing support and education without imposing values. It also offers economic, medical, legal, family and scholastic aid. Their main emphasis is on "habitat" — that is, stabilizing the young person in a place in order to support a change in his/her viewpoint which will promote personal growth.

Until December 1986, PIaMP had a drop-in centre called the "Repaire" (the hideout), which was a place for social skills training based on self-respect, acceptance of differences and possible identification with role models. At the time of the interview, they were reconsidering the formula for the new "Repaire".

1.3 Impact of the Law on the Operation of Agencies and Associations

Up to now, the law has had little effect on agencies, except for ASP. The Elizabeth Fry Society has only had contact with a few street prostitutes, jailed since Bill C-49 became law. The MMSSC has only had a dozen or so pre-sentence reports to prepare. They had none in the days of municipal by law 333-3(a); and the CHD is starting to see clients of prostitutes, panicked by the publicity surrounding the two arrests of Donna Newman and that of Lise Thibault, a prostitute with AIDS.

Things are different for ASP because one of its priorities, after the safety of prostitutes, was to force the government to repeal the bill by asking people to pressure their MPs.

1.4 Views on the Law's Value

Only one respondent saw an advantage in the law: it drew attention to the client, so that street prostitution no longer seemed a crime committed exclusively by bad girls, but an activity shared with a client who could be any man. Another worker saw irony in the notion that by arresting clients, the lawmakers are almost arresting themselves. Our respondent sees an advantage in the fact that men like themselves, respectable men, husbands, family men and so forth, can be arrested and thinks the legislators will amend this law.

On the other hand, the respondents saw several drawbacks:

- arrest of a client can create family problems;
- stiff fines may only encourage repeat offences and even robbery of clients;
- district restrictions make the work more dangerous because prostitutes are isolated;
- enforcement will not solve a problem whose cause is economic and social;
- the bill demonstrates the hypocrisy of a legislator who does not criminalize prostitution, but does criminalize related activities;
- because of the climate of repression, drug abuse has become widespread;
- because prostitutes are under the effects of drugs and fearful of police, pimps will have a greater hold over them;
- the law salves the conscience of the oppressor, who is often a client of prostitutes.

As to whether the law has achieved its goal, all our respondents say it has not, as far as prostitutes are concerned. There are still as many of them; the need is there and only methods change. Prostitutes may be less visible. On the other hand, one respondent, who goes through the "Main" every day at about 2:00 pm, noted a large drop in the number of prostitutes out in the daytime. Another noticed that prostitution drops off when there is sustained police enforcement.

As for clients, all respondents believe that the chance of being arrested and charged would discourage some. One of the workers, who sees a good many appear in court, says that 90% have suffered the most embarrassing day of their lives. This person believes that such clients will turn to other kinds of prostitution.

1.5 Recommendations

Five respondents were for decriminalization. One was for legalization, but did not know the best way of handling this.

Those who chose decriminalization justified this by saying legalization would encourage an undesirable activity and probably a new employer/employee power relationship. They also mentioned conditions necessary for decriminalization. The issue would have to be depoliticized and the task of finding the best way to organize the "profession" given to a commission of inquiry, made up of apolitical persons. It would first be necessary to recognize prostitution as a trade and reinforce laws against violence. It would also be necessary to be sure that those involved be educated about preventative health practices. One respondent added that decriminalization should be supported by appropriate support and training services, as well as prevention programs aimed at young people.

The worker who supported legalization believed that it would allow more protection against pimps and violent clients. He supported zoning for prostitution. This person wondered, however, about the type of organization needed to prevent certain prostitutes working outside the legalized system. If some brothels are legalized, what is the legislator to do about those that fail to adapt to the system, its requirements or its hours? According to him, there would always be prostitutes who would not want to be officially identified as such, who could not stick to the working hours and whose physical appearance and drug habit would keep them outside the system. What is to be done in these cases? He had no answers.

2. Impact of the Law as Seen by Citizens and Merchants

2.1 Respondents' Characteristics

In Montreal, as we mentioned, there is no formal citizens' group whose concerns include fighting street prostitution. Complaints (about ten in 18 months) come mainly from individuals or small groups of business people. Sometimes they are sent directly to the police and sometimes to a municipal councillor who passes them on to police. We questioned four people who had made complaints after the bill became law: a resident of Pine Avenue, the principal of a grade school there, a resident of the Jeanne-Mance low-income housing complex near Boisbriand and Hôtel-de-Ville, and a merchant who represents a group of five business people on St-Denis near Christin.

For these people, living in an area where prostitution is going on means many unpleasant things: noise; insults; threats; indecency in their yard, lobby or parking lot; moral values destroyed; a bad example for children; fear of going out at night and a loss of customers.

The school principal had complained to police after he had himself received many complaints from parents of pupils. In September 1986, the prostitutes, who had stayed out of the area for two years during class hours, began to work during these times. Complaints to the police resulted.

We also interviewed three owners of businesses on St. Catherine near St-Dominique, in the very heart of the "Main": two restaurateurs and the owner of a megadiscothèque. These business people had never laid a charge. The two restaurant owners, who served prostitutes, had always maintained a sound business footing with them. They tolerate prostitutes as long as they do not solicit in the restaurant. On the other hand, they do not object if clients solicit. What they do not want to risk is having customers bothered who are not interested in the prostitutes.

The discothèque owner has only been in the area since May 1987. He has never had grounds to complain to the police since opening. His clientele, people who go to night clubs and discothèques, are not puritans. Also, his clients go directly into the disco from their cars or a taxi. Since they are not out window-shopping, they do not come into contact with prostitutes.

Indeed, far from being afraid that the presence of prostitutes will scare away his customers, he believes the reverse will happen: the prostitutes will be overrun by the coming and going of his customers, sending them and their clients elsewhere as they prefer a quiet street for their dealings. He also thinks that 6,000 people a week, coming and going, will make the area safer for passers-by and attract new people. He believes that with the help of the police, it is possible to change the area's image and that his business will give it some prestige because of the kind of customer he attracts. He concluded the interview by saying: "If you want to get rid of weeds, you have to plant a good lawn".

2.2 Perception of and Satisfaction with Police Enforcement

All respondents, with the exception of the discothèque owner, have noticed an increase in police enforcement compared to the period before Bill C-49, and say that it is effective for the time being. The St-Denis merchants are fully satisfied with enforcement. They have noticed a clear decrease in the number of prostitutes and even that they are absent during the day. Their clientele is more relaxed traffic movement has greatly improved.

But for other complainants, the situation is different. They have noticed that prostitutes return, as soon as enforcement lets up. While they are satisfied with the attention paid to them, they still do not understand why police are so ineffective in the way they enforce the law. They think that the police have the means necessary to control the prostitution problem, but are not making sufficient use of them.

The discothèque owner was unable to compare enforcement now and before the law, since his business did not open until May 1987. But he was very satisfied with the work of the police. They had carried out a three-day crackdown for his opening night.

2.3 Perception of the Law's Impact on Street Prostitution

The St-Denis merchants saw a noticeable drop in the number of prostitutes. This, however, was not the case for other respondents. The Pine Avenue resident said that she did not understand the workings of the law very well, especially district restrictions. It seems to her as if a judge, driving a prostitute off the "Main", told the effect, she had noticed a change in the type of girls working as prostitutes on her street. Formerly, the girls were quiet and she only occasionally had something about which to complain. Now, she believes the girls are coming from St. Catherine, because they are more noisy, aggressive and vulgar, and also bring their pimps with them.

The school principal reports that after district restrictions were applied, the winter of 1986-87 was quiet. But in March and April 1987, new prostitutes arrived, until police began regular enforcement. In August, there were still about ten prostitutes walking the street, all of them new.

The resident of the Jeanne-Mance complex had to deal with some ingenious prostitutes. In spite of obstacles put up to block access to the two parking areas in the back (change in direction of traffic flow, fencing and cement blocks), they have remained a favourite place to do business. In fact, the prostitutes still manage to make their way into the parking areas. The respondent may have noticed an obvious drop in the number of prostitutes in the area, but he is no more tolerant than before of the ones still there.

2.4 Citizens' Suggestions

They suggest increased police personnel and constant patrols. The school principal believes that patrols are needed almost every half hour to get the problem under control. One citizen, who understands the need for proof of soliciting before an arrest can be made, would like the police to have the power to take prostitutes who are under the influence of drugs or alcohol or, are rude to passersby, to the station. Another suggests that the police patrol in plain clothes, not to make undercover arrests, but for surveillance.

3. Press Reaction to Bill C-49 and Its Effects

We wanted to know how the press had covered Bill C-49 and its effects in the four local newspapers: *La Presse*, *Le Journal de Montréal*, *Le Devoir* and *The Gazette*. We collected 101 articles on prostitution which appeared between October 1, 1985 and April 30, 1987, using for papers' main indexes and clipping services.

Out of this number, we looked at 69 articles which dealt with Bill C-49 directly: "Drapeau appuie le projet de loi fédérale sur la prostitution" ("Drapeau supports federal bill on prostitution"), or indirectly: "Donna Newman, prostituée porteuse du SIDA, est appréhendée de nouveau à Montréal" ("AIDS-carrier prostitute Donna Newman apprehended again in Montreal"). The latter article does not deal with Bill C-49, but results from publicity, orchestrated by police officers, to discourage clients from dealing with prostitutes. Then we set aside 32 articles on other kinds of prostitution, descriptions of police operations and juvenile prostitution, which did not refer to the bill and its effects. Examples of articles we did not use are: "Salons de massage: 20 prévenues comparaissent" ("Massage parlours: 20 Accused Appear in Court"), or "Une prostituée repentie défie la police de St-Eustache: elle traîne 7 policiers devant le CPQ pour harcèlement (salon de massage)" ("Former Prostitute Challenges Police ‾ Has 7 Policemen Before CPQ (the Quebec Police Commission) for Harassment [massage parlour]"), or "Les prostituées ont une papesse" ("Prostitutes have a Popesse"), etc. Appendix 28 lists the headlines on the 69 articles analyzed.

3.1 Description of articles

3.11 Number and time of publication

Table 79 shows that the majority of the articles (55.1%) appeared between October 1, 1985 and January 31, 1986. The number of articles which appeared in March 1987 is markedly different from the number per month which appeared after February 1986. This is explained by the fact that on March 7, *Le Journal de Montréal* devoted its front page and three articles to street prostitution.

3.12 Type

Of the 69 articles, 31 were dispatches (most from Canadian Press), 34 were local articles, and 4 were editorials. Among the latter, one was from the *Medicine Hat News* and one was from the *Saskatoon Star Phoenix. But they ran on la Presse's* editorial.

3.13 Play given to articles

The play given to articles on the bill and its effects ranged from the 57-line editorial, concerning the advisability of zoning "red-light" districts (*The Gazette*, October 28, 1985), to the 12-line paragraph reporting the arrest of clients which was part of the police strategy of deterrence (*La Presse*, March 25, 1987); from a 243 x 163 mm colour photo captioned "Les filles déménagent" ("The girls move on"), which took up three-quarters of the front page of *Le Journal de Montréal* (March 7, 1987), to a 180 x 215 mm cartoon picturing a Montreal mayoralty candidate "soutenu par les demoiselles du Boul. St-Laurent" ("supported by the young ladies of St. Lawrence Boulevard") (*La Presse*, August 23, 1986) (Appendices 29 and 30).

We tried to classify articles according to the play given them by the newspapers. There are certain indicators which may be obvious in themselves, such as a front-page picture or a small item on any page. But between these extremes, it is sometimes difficult to classify them objectively. For example, we had to determine if an article two columns wide on page A3 of *La Presse* was more prominent than an article one column wide on page B1 of *The Gazette.*

Faced with these difficulties, we chose the height of the heading in millimetres as the primary criterion. Then, we categorized them arbitrarily as follows:

- 1 to 5 mm - little prominence
- 6 to 10 mm - average prominence
- 11 to 15 mm - great prominence
- 16 mm and up - very great prominence

TABLE 79

NEWSPAPER ARTICLES CONCERNING BILL C-49 BY NEWSPAPER AND MONTH OF APPEARANCE, FROM OCTOBER 1985 TO MAY 1987 (N=69)

Papers	*La Presse*	*Le Journal de Montréal*	*Le Devoir*	*The Gazette*	Total	
Month	**n**	**n**	**n**	**n**	**n**	**%**
1985						
October	3	2	1	5	11	15.9
November	4	1	0	3	8	11.6
December	1	3	0	4	8	11.6
1986						
January	8	0	0	3	11	15.9
February	0	1	0	1	2	2.9
March	1	0	0	1	2	2.9
April	2	0	0	0	2	2.9
May	0	0	0	2	2	2.9
June	0	0	0	0	0	0.0
July	0	0	0	1	1	1.5
August	1	0	0	2	3	4.3
September	1	0	0	0	1	1.5
October	0	0	1	1	2	2.9
November	1	1	0	1	3	4.3
December	0	0	0	0	0	0.0
1987						
January	0	0	0	2	2	2.9
February	0	0	0	0	0	0.0
March	4	4	0	0	8	11.6
April	2	0	0	1	3	4.3
Total 1985-87	28	12	2	27	69	100.0[1]

[1] 99.9 rounded off to 100.0

Table 80 shows the breakdown of the articles according to this primary criterion. The table shows that the height varies from 3 to 21 mm and that according to this single criterion, 14.5% of the articles could be considered as having great or very great prominence. But we reclassified our articles by putting the three editorials, the five articles accompanied by a picture and the cartoon, which were all of "average prominence", into the "great prominence" category. Our final classification then is:

- little prominence: 4 articles - 5.8%
- average prominence: 46 articles - 66.7%
- great prominence: 17 articles - 24.6%
- very great prominence: 2 articles - 2.9%

Thus, according to our evaluation, 27.5% of the articles could be considered to have great or very great prominence in relation to all the other articles published in the newspapers.

TABLE 80

ARTICLES BY SIZE OF HEADING AND DEGREE OF PROMINENCE (N=69)

Prominence	Little	Average	Great	Very great	Total	
					n	%
M						
1	-					
2	-					
3	1				1	1.5
4	-					
5	3				3	4.3
6		15			15	21.7
7		16			16	23.2
8		7			7	10.1
9		10			10	14.5
10		7			7	10.1
11			4		4	5.8
12			3		3	4.3
13			1		1	1.5
14			-			
15			-			
16				-		
17				-		
18				-		
19				-		
20				1	1	1.5
21				1	1	1.5
Total et	4	55	8	2	69	
(%)	(5.8	(79.7)	(11.6)	(2.9)		100.0

3.2 Description of content

For this part, we omitted the articles which repeated coverage of the same event in several papers on the same day. For example, on October 30, 1985, the four newspapers used a Canadian Press story about Mayor Jean Drapeau appearing before the Standing Committee on Justice in Ottawa.

This happened nine times. For six of them, we used the article which appeared in *La Presse* because this paper had published the most articles in French on the subject — 28 compared to 12 in *Le Journal de Montréal* and 2 in *Le Devoir*. In two of the remaining three cases, we chose the article which appeared in *The Gazette* on October 23 and November 25, 1985, because the articles in *La Presse* were less complete. In the last case, we used the article in *Le Journal de Montréal* because *La Presse* had not used the Canadian Press story.

The final analysis was done on 57 articles, 26 from *La Presse*, 9 from *Le Journal de Montréal*, 1 from *Le Devoir*, and 21 from *The Gazette*.

3.21 Kinds of prostitution, type and age

Obviously, it was to be expected that all of these articles had to do with street prostitution, since Bill C-49 was adopted mainly to eliminate the nuisances caused by this kind of prostitution. However, there were 18 references to other kinds of prostitution: brothels (5), bars (3), escort services and massage parlours (6), residences (3) and classified advertisements (1). Usually, the reference was to the effect that if the laws were vigorously enforced, the prostitutes would move into these kinds of prostitution.

At the beginning of the period of analysis and following in the Fraser report's footsteps, legalized brothels were often suggested as an alternative to repression on the street. *The Gazette* even devoted an editorial to this on October 28, 1985. Later on, the other kinds of prostitution were mentioned in theorizing about the consequences of enforcing the law. But the later references were essentially to escort agencies, clubs with nude dancers or massage parlours, and the law was only mentioned in connection with these. For example, on August 16, 1986, *The Gazette* published four columns on four different pages stressing the impossibility of controlling this activity with section 195.1. Finally, another article in the same paper on the same day claims that the proliferation of escort agencies is a consequence of section 195.1's enforcement.

As for those involved in prostitution, 22 articles refer exclusively to prostitutes and 31 to prostitutes and clients. Four articles deal exclusively with clients, denouncing discriminatory enforcement of the law (more prostitutes than clients arrested), reporting a round-up of clients or warning that clients will be targets of police action. In the 35 articles in which clients are mentioned, four are concerned exclusively with clients, ten are mainly concerned with them and 21 deal with them as a subordinate topic.

Among the 57 articles about adult prostitution, four refer to juvenile prostitution: one to demand that social aid systems be provided for juveniles; a second to announce Justice Minister Crosbie's intention of providing harsher penalties for clients of minors; a third to predict that the law will allow early referrals of juveniles to social agencies and one to deny that the visibility of street prostitution has had an impact on the increase in juvenile prostitution.

3.22 Source of article

We wanted to know to whom the comments in an article were attributed. Sometimes a journalist, editorial writer or other person was the author of an article or part of an article. But, most frequently, the journalists report statements made by other persons or groups (police, mayors and so forth). In some cases, however, the article seems to have originated with the journalist. But, in point of fact, the content has been conveyed to him/her by another, unidentified person. Our knowledge of police strategy in the field of deterrent publicity allows us to attribute three of the articles to their true author.

Overall, the 57 articles' content was attributable, in whole or in part, to 142 persons or groups, as shown in Table 81. We see that the police are the main source of information (31%), persons with links to the criminal justice system and their supporters are the sources of 40.1% of the articles (categories 2, 4, 5, and 7), and prostitutes and their supporters are the source of 25.2% of the articles (categories 8 to 13). As to the MPs, they made as many speeches in favour as against (for: Svend Robinson and Lucie Pépin; against: Lise Bourgault, Robert Nicolson, Ron Stewart and John Crosbie).

3.23 Trigger events

Table 82 shows what event gave rise to each article. We can see that taking position for or against the law, as well as police operations, were the topics of almost half the articles (49.1%) and that positions opposing the law were covered more often than the reverse. Police operations, planned or carried out against clients, are more often the topic of the articles than operations against prostitutes alone. In fact, no article dealt exclusively with the arrest of prostitutes, while seven were exclusively about clients. Finally, nothing was written about positive aspects, while six negative impacts were reported.

TABLE 81

CONTENT OF NEWSPAPER ARTICLES BY SOURCE

Source	Number	%
1. Minister and MP	16	11.3
2. Mayor and FCM[1]	7	4.9
3. Mayoralty candidates	4	2.8
4. Police	44	31.0
5. Crown attorney	4	2.8
6. Judge or judge's ruling	6	4.2
7. Residents' groups	2	1.4
8. Prostitutes	11	7.7
9. Client	1	0.7
10. Escort agency owner	3	2.1
11. ASP[2]	7	4.9
12. Other groups supporting prostitutes[3]	6	4.2
13. Defence lawyers	8	5.6
14. Criminologist	1	0.7
15. Community health department	1	0.7
16. Poll	1	0.7
17. Editorial writer	4	2.8
18. Journalist	16	11.3
Total	142	99.8

[1] Federation of Canadian Municipalities.

[2] Alliance poour la Sécurité des Prostituées/Alliance for the Safety of Prostitutes.

[3] Canadian Action Committee on the Status of Women; Mouvement de Défence des Droits des prostitué(e)s/Movement for the Rights of Prostitutes; Association Canadienne pour la Liberté Civile/Canadian Civil Liberties Association; connection des Lesbiennes/Lesbian connection.

TABLE 82

TYPE OF EVENT WHICH GAVE RISE TO ARTICLES ABOUT BILL C-49 IN THE MONTREAL PRESS FROM OCTOBER 1985 TO APRIL 1987 (N=57)

Event	Frequency Number	%
Steps in the bill's adoption	6	10.5
Opposition to the bill (prior to adoption)	3	5.3
Opposition to the bill (after adoption)	4.5[1]	7.9
Support for the bill (prior to adoption)	2	3.5
Support for the bill (after adoption)	4.5[1]	17.9
Police operations against clients[2]	7	12.3
Police operations against prostitutes[2]	0	0.0
Police operations against clients and prostitutes[2]	7	12.3
Negative effects of the law	6	10.5
Positive effects of the law	0	0.0
Practice of street prostitution under the law	3	5.3
Challenge to constitutionality	7	12.3
Challenge on technicality	1	1.7
Other kinds of prostitution	3	5.3
Limit to the application of the law[3]	1	1.7
Pollo	1	1.7
Arrest of a prostitute with AIDS[4]	1	1.7
Total	57	100.0[5]

[1] One article reported two opposing positions.

[2] Operations announced or carried out.

[3] Law not applicable to escort agencies.

[4] Arrest of Donna Newman in Montreal publicized as a deterrent strategy.

[5] 99.9 rounded to 100.0.

3.24 Image of the law

We were able to determine what image of the law was reflected in 44 of the 57 articles. The other 13 did not lend themselves to such an evaluation, since they were concerned about the law only indirectly. This was the case for articles on some police operations where the paper limited itself to describing operations, and for the article on the arrest of the prostitute with AIDS. Table 83 shows that there were more articles presenting a negative than a positive image of the bill (19 as opposed to 15).

TABLE 83

IMAGE OF BILL C-49 IN THE MONTREAL PRESS FROM OCTOBER 1985 TO APRIL 1987

Image Frequency	Number	%
Positive	15	34.1
Negative	19	43.2
Positive and Negative	10	22.7
Sub-total	44	100.0
Not Applicable	13	
Total	57	100.0

When an article presents a partially or completely positive image, it mentions one or more of the following 12 anticipated effects:

- elimination of prostitution in public places in a week;
- eviction of prostitutes from residential areas;
- elimination of harassment of passers-by;
- more effective use of police forces to combat soliciting in public places;
- non-discriminatory enforcement of the law against prostitutes and clients;
- non-discriminatory enforcement of the law against clients of male and female prostitutes;
- drop in crime associated with prostitution;
- drop in violence related to prostitutes' activities;
- drop in the attraction of juveniles into prostitution because of its visibility;
- opportunity to intervene very early with juveniles and refer them to social agencies;
- deterrence of potential clients who fear having a criminal record;
- deterrent effect of the law which, in itself, would prevent many arrests from having to be made;
- eviction of American prostitutes who seek cities where soliciting is not a criminal offence.

The articles which reflected, in part or in whole, a negative image of the bill stressed one or more of the following 17 aspects:

- danger to the safety and lives of prostitutes
- isolation
- prostitutes needing money will accept clients who seem unsavoury or even violent
- the drop in numbers will mean that there are fewer to look out for each other
- criminalization gives the message to violent men that prostitutes are "disposable" persons
- increase in murders of prostitutes
- clandestine practice of prostitution
- use of pimps
- association with organized crime
- threat to civil liberties (freedom of speech, association and so on)
- harassment and arrest of innocent people
- harassment of the poorest prostitutes
- chance of prostitutes losing custody of their children after arrests and imprisonment
- ruined reputations of clients who are arrested and whose offence will be publicized (a little girl finding out from the newspapers that her father is a client of prostitutes)
- family life disrupted by the arrest and sentencing of clients and prostitutes
- discriminatory application of the law, mainly in the clients' favour, because of the low number of policewomen
- increase in cases before the courts due to the imprecise wording of the law
- futility of expecting to deter clients over the medium and long term
- enforcement in hotels, bars, clubs and restaurants making it impossible to engage in an activity which is not illegal
- the law does not provide for harsher treatment for clients of juveniles
- the law does not provide for social and economic betterment to prevent people from prostituting themselves
- and finally, seen from the prostitute's point of view, the law means fewer clients and a drop in income.

3.25 Summary of themes and content

It is during period of the Bill C-49 debate, its adoption and its coming becoming law that the greatest number of articles about the new law on public soliciting are found.

Before the law was adopted, newspaper coverage tended to play up the potential negative impacts, rather than the positive ones. For example, in an article announcing, in a big headline, "Le maire de Montréal appuie sans réserve le projet de loi et il voit en elle un outil efficace pour combattre la prostitution" ("Montreal mayor unreservedly supports the bill and sees it as an effective tool to combat prostitution"), the reporter writes more about the reservations and drawbacks stressed by those opposed to the bill. Thus, articles giving a completely positive evaluation are very rare. Often, both positions are found in the same article and several of them are clearly negative.

The bill is criticized for not coming to grips with the basic problems of prostitution, which are social and economic, and for making life more difficult for prostitutes who will in future be driven underground, forced to rely on pimps and, thus, will be more involved with the criminal world.

There is also concern that the law will not be enforced fairly for clients and prostitutes. This even extends to doubt about the discretion that will be shown by the police in enforcing the law. There is a concern that individuals with no connection to prostitution might be arrested by mistake, simply for talking together about prostitution on the street.

Following this bad press, some positive articles appeared. Generally, the sources were the police and the Minister, Mr. Crosbie. They are reassuring, stating that the law will be enforced with care and discretion; that there will be no abuse; that, in any case, there is no question of individuals being picked up by mistake; and, finally, that clients will be the first targets of police operations (stating that the strength of the bill lies in its deterrent effect on clients).

The advantages laid out are that this law will again give the police the power, practically non-existent since 1978, to intervene effectively to combat street prostitution; that the number of prostitutes will decrease and that it will discourage pimps and that the law will also allow for more effective action among juvenile prostitutes who will be referred to social agencies more frequently.

An alternative theme recurs quite often: if we want to do away with street prostitution, we must set up areas where prostitution can be practised legally.

In January 1986, the mass media noted the gradual enforcement of the law throughout Canada. The number of arrests was reported and it was pointed out that prostitutes and clients were starting to disappear from the streets. There were forceful reminders that the latter were now targets for arrest; also mentioned were marches in support of "the ladies of the evening" in Vancouver and Montreal, as well as the dangers that now stalked them.

Something which should be stressed is that on the same day, three lead articles on Bill C-49 appeared in the same daily. The first was based on comments by an MUC police officer, who praised the effectiveness the law would have in the future and stated that the forces of law and order were now well on the way to eliminating prostitution. The other two articles were much less laudatory. A criminologist and a lawyer maintained that the law in no way solved the problem of prostitution, which is primarily a social, not a legal, problem. They predicted that prostitutes would leave the streets for a while, but would come back.

On February 25, 1986, it was reported that in Vancouver a prostitute was challenging the constitutionality of the law for the first time. Then six more articles appeared at regular intervals to keep us up to date, until on April 5, 1987, Suzanne Cazès was mentioned. She was the first Quebec prostitute to challenge the bill's constitutionality.

Also, from time to time, articles reported the impact on the prostitution community that had been observed and which was noticeably as had been feared. Also mentioned was the fact that clients were arrested less often than prostitutes. On the other hand, on January 10, 1987, a headline of average prominence (on page 3 of *The Gazette*) announced the arrest of 210 clients by policewomen passing as prostitutes.

Finally, in March 1987, some prominent and very prominent articles played up the difficulties experienced by prostitutes, their being moved to different places and the discriminatory enforcement that favoured clients. After this last statement, an article in *La Presse* on March 29, 1987 ended by inviting those who were outraged by this "policy of a double standard" to write to Justice Minister Ramon Hnatyshyn to ask for repeal of section 195.1.

VII SUMMARY OF IMPACTS IN AND RECOMMENDATIONS FOR MONTREAL

Presented here is a summary of the impacts or the positive and negative effects of the bill with regard to its objectives, which were to reduce communication for the purposes of prostitution in public places, to apply the law equally to prostitutes and clients and make enforcement easier. In the main, the law has achieved these objectives in whole or in part but, in so doing, it has had some negative impacts and effects.

1 Positive impacts

1.1 Decrease in communication for purposes of prostitution in public places

It seems that on this point, the law has only partially achieved its purpose as tackling street prostitution in Montreal was a police priority. With some exceptions, prostitution in other public places was not affected. But even limiting ourselves to the goal of the MUC police, we can see that it has only been partially achieved. In fact, estimates vary greatly; while some perceive that there is a good deal less street prostitution (70%), others perceive very little less (10%) or the same amount. If there were really significantly less street prostitution, one would think that all the respondents, if they were frank, would have reported it. One conclusion, however, seems inescapable: There has not been an increase, and in this regard it can be claimed that the law has at least kept street prostitution from growing.

1.11 According to the perception of the groups concerned

All our respondents, with the exception of social workers, saw a drop in the number of prostitutes offering heterosexual services on the "Main". Estimates varied from 10% to 70%. If we believe the contents of a tactical information report from February 1987, this decrease is in the order of 65% to 70% during the day (five or six prostitutes now, compared to 18 to 20 in 1985). During the evening and at night, the decrease is 50% (about 50 now, compared to about 100 at the time the law came into effect). In other areas, the decrease depends on the intensity of police activity, as was the case on Pine Avenue.

The social workers and a minority of respondents from other groups claimed that, in fact, the number of prostitutes had stabilized. The law had only prevented their proliferation.

As to male prostitutes who offer homosexual services, all were of the opinion that their numbers had remained stable. Police intervention is mainly focused on "cleaning up the Main".

1.12 According to counts

As there were no counts available for the period prior to the law's enforcement, it was impossible for us to make a comparison between 1985 and 1987. Counts done in 1987, however, allow us to see the temporary deterrent effect of intense enforcement.

While on Saturday, May 30 and Saturday, August 1, we counted about 35 prostitutes at peak hours, there were only 12 on Saturday, June 20, five on Saturday, June 27, and one on Saturday, July 4, after a two-week period of sustained enforcement. But on Saturday, August 1, the number was the same as on May 30, before the enforcement period.

1.13 According to newspaper articles

Five articles out of the 38 which appeared after January 13, 1986, the date the law was applied in Montreal, mention its impact on the number of prostitutes. They all report a drop, although in one of them this is contradicted in the same article.

The first article on March 24, 1986, reports a statement by a representative of the Federation of Canadian Municipalities that the law has forced street prostitutes underground, where there is more criminal behaviour. The article does not explain how this person, head of a task force on prostitution and pornography, came to this conclusion.

The four other articles report police comments. On July 16, 1986, André Schmidt, Director of the Coordination/Morality (C/M) Section, boasted about a drop of 50%. In the same article, however, some prostitutes stated that the law had not changed anything. On March 7, 1987, Lieutenant Jean Legros of the Morality Section of the Organized Crime Division (Morality DCO) also reported a drop of 50%, but only on the "Main". He also said that prostitutes had moved to other parts of the city. On April 8, 1987, in an article on clubs featuring nude dancers, he repeated what he had said the month before.

On August 16, 1986, in an article on proliferation of escort agencies, some police reported a drop in street prostitution, but left the impression that the definition of a public place was too narrow, causing the increase in escort agencies in residences or in hotels.

1.14 According to arrest statistics

The more operations and arrests made, the more chances there are of arresting a repeat offender. If she pleads guilty, she will receive increasingly severe fines and jail sentences. This should have a greater deterrent effect. If she pleads not guilty, she is placed under a district restriction. According to our respondents, district restrictions are unpopular because they have a direct effect on the source of income. Furthermore, we have seen that the process of arresting and charging clients is very traumatic for many. It is still too early, however, to say how much of a deterrent this traumatic experience will be.

Thus, the more regularly arrests are made, the greater the chances of reducing street prostitution. Statistics from 1985 and 1987 show the results of increased police activity against prostitutes and clients. According to Table 6, no clients and 1,189 prostitutes were arrested in 1985. These figures rose to 929 clients and 1,406 prostitutes by December 31, 1987, an increase of 92% for clients and about 18% for prostitutes.

But, as we have said, it is not so much the number of arrests which affects the number of prostitutes, but the number of arrests of repeat offenders. In the summer of 1987, police estimated that 80% of those arrested in a crackdown were repeat offenders. We can conclude that, at that time, enforcement of the law was still not much of a deterrent. Arrests for breach of district restrictions were not yet general or systematic. But in the fall, a supervisory officer and several other police officers noticed a significant increase in the number of new prostitutes aged 18 to 20. These now made up 80% of those arrested during a blitz by SIR Centre.

If these estimates are correct, it must be concluded that the repeat offenders are leaving the trade or moving elsewhere. According to our respondents, it is too early to evaluate these changes in location and kinds of prostitution. In a large city like Montreal, it is easy for prostitutes to move to a different area without being spotted immediately, given the number of police officers. And since there are no national files, it is often impossible to check if a prostitute comes from another town, where she has already been a repeat offender, or is under a district restriction.

Consequently, the rate of new charges seems to indicate that while enforcement deters repeat offenders from going back to "the Main", it does not deter young persons from taking their place. This hypothesis can only be verified by research specifically aimed at these new prostitutes. Perhaps they are prostitutes from other cities (Ottawa and Toronto) who have been driven out by enforcement there. But young Quebec women may also be arriving on a regular basis, forced into the life by difficult psychosocial or economic conditions. The respondents who did not believe the number of prostitutes had decreased had often noticed this revolving cast of characters among them.

1.2 Changes in police practices to promote non-discriminatory enforcement

1.21 According to the perception of the groups concerned

All our respondents were aware that clients were targets of the new law. As early as October 31, 1985, newspapers were publishing warnings to that effect. Later on, 19 articles mentioned the arrest of clients or the police's intention of targeting them. The police changed their methods to meet this new goal. The belief at SIR Centre is that enforcement should not be discriminatory, and until July 1987, the *flagrante delicto* strategy (catching in the act) was used to arrest the client and prostitute at the same time, especially as SIR Centre has no policewomen on its staff.

At Morality DCO, a policewoman was transferred specifically to work undercover. Since December 1986, "Operation Client" has been carried out on a regular basis. On November 15, 1987, *La Presse* published a front-page article on the use of undercover agents and operations aimed at clients, and *Le Journal de Montréal* did the same on December 18, 1987.

In spite of these changes in police methods, supervising officers are aware that a onto-one arrest ratio is difficult to achieve, however determined they are. There are too few policewomen. Nor can they give us the struggle against prostitutes to target clients exclusively. The public nuisance and criminality which go with the presence of prostitutes cannot be allowed to increase because of a slackening in enforcement.

Other respondents think that changes in police methods are insufficient that enforcement is discriminatory. Among these are defence lawyers and social workers who base their opinions on arrest statistics. The newspapers also played up the disproportionate number of prostitutes arrested in comparison to clients. A prominent article on March 29, 1987 reported ironically that according to statistics for Toronto and Montreal, each prostitute "only attracts half a customer!" We may wonder what the reaction of the journalist would be if, instead of the 283 arrests of prostitutes versus 209 for clients reported in 1986, she had reported the exact number, which was 852 prostitutes and 454 clients. It is in this article that the journalist asks those persons who are outraged by this double standard to complain to the Minister.

1.22 According to the records

Table 8 confirms the disproportionate number of clients and prostitutes arrested: in 1986, the prostitute/client ratio was 2.6:1 and in 1987, 1.5:1. Our figures show a significant change between November 30, 1986, when the ratio was 5.2:1 (1,122 prostitutes to 215 clients), and December 31, 1987, when the ratio was 1.5:1 (1,406 prostitutes to 929 clients). As well, Table 9a shows that in each month of 1987, there were more arrests of clients than in 1986, except in December. This table demonstrates police willingness to apply the law in a non-discriminatory way when available staff allows.

1.3 Ease of enforcement

1.31 Simplicity of evidence

The ease with which arrests are made and charges laid proves the ease of obtaining evidence. Proceeding only according to paragraph (*c*), the police have only to get evidence of communication for the purpose of prostitution and prosecutors do not have to prove any nuisance whatsoever. This is why, if we leave aside constitutional challenges, most clients and prostitutes plead guilty.

1.32 Ease of arrest methods

Since the trial court and the Superior Court recognize the validity of evidence based on a police undercover work, arrests are easily made. About 90% of them are made after undercover contact. Several police officers have told us that these arrests are so easy to make that the work is no longer interesting and has even become boring and routine for some of them.

1.33 Rate of charges and type of sentences

Almost 100% of arrests lead to charges, and except for the prosecutors and several police officers, the respondents felt the sentences are harsh. The fines of $300, $500 and $700 for a first, second and third offence are harsher than for certain hybrid offences. Jail sentences, which are imposed after a second breach of bail conditions or a third offence, reduce the number of prostitutes and make policework easier, since there are fewer offenders to watch for.

1.34 Definition of a vehicle as a public place

Obviously, this new definition makes undercover police work easier. An officer can arrest a prostitute who may wait until she is a car to offer services and discuss prices. Arrests for being caught in the act in an automobile are also facilitated by subsection 2 of section 195.1.

Thus, all the expected impacts have materialized, up to a certain point. Yet, while there seem to be fewer prostitutes in the area of the "Main", Minister John Crosbie's prediction, as reported in *Le Journal de Montréal* on December 21, 1985, that prostitutes would disappear from public places in a week's time, is still far from coming true. The "Main" is still home to 50% of prostitutes and an unknown but large percentage have moved to other streets.

2 Negative impacts

In a democratic and pluralistic society, any law which has to do with morality or sexuality has its critics. This law is no exception. Moreover, since the legislator cannot predict all the implications of a new law, negative impacts or effects may occur.

2.1 Media criticism

As we have noted, the newspapers reported more negative than positive effects. As early as January 18, 1986, *La Presse* interviewed a criminologist and a defence attorney. They criticized the bill and questioned whether it would have any deterrent effect. And when positive impacts, such as a drop in prostitution, were reported, an opposing point of view or some negative impacts were also mentioned. The reverse did not occur. A year later, on March 29, 1987, an article in *La Presse* virulently attacked the double-standard policy which allowed clients to escape arrest more easily than prostitutes.

2.2 Pressure group criticism

As must be expected, the Alliance for the Safety of Prostitutes, the only group in Montreal officially defending prostitutes, spoke out against the law and organized a march in support of prostitutes.

We must also point out that there was pressure from the Canadian Action Committee on the Status of Women. They invited concerned persons to demand repeal of section 195.1 in an article entitled "La moitié du monde" ("One half of the world"), which appeared in *La Presse* on March 29, 1987.

2.3 Decreased emphasis on the fight against pimping

The new bill, which is easier to enforce and raises the arrest and conviction statistics, has brought about a change in police priorities and in the time devoted to various aspects of prostitution. Combatting pimps has gone from second to fourth priority, after juvenile prostitution, street prostitution and common bawdy-houses.

While the act did not specifically take aim at pimps, it is likely that the legislator did not foresee, or want this change in priorities. Even if, as several respondents said, pimping is not a serious problem in terms of numbers, the current MUCPD policy will not necessarily further reduce pimps' numbers, unless there is a very great drop in the number of prostitutes.

2.4 Negative impacts according to police

The main negative effects with regard to enforcement are:

- costs are higher because clients must be arrested. Using un undercover policewoman requires the support of two policemen and two unmarked cars;
- geographical dispersion of prostitutes under district restrictions fragments police strength and lowers productivity;
- the shift of prostitutes to other kinds of prostitution means that evidence takes longer and costs more to gather and is less likely to result in arrests and be a deterrent;

- fines seem not to deter people as much as jail terms. On the contrary, the higher fines seem to prompt prostitutes to work even more;

- to achieve an acceptable client/prostitute arrest ratio, it is necessary to arrest fewer prostitutes. Because of the limited number of personnel and, especially, female officers, the large-scale "Operation Client" offensives monopolize almost all male police, as each undercover policewoman is supported by two male officers. During this period, few officers are available to arrest prostitutes;

- it is impossible to set up a nation-wide database of fingerprints. Without this information, police do not know if a new prostitute comes from another city where she already has a record, which would justify detaining her and requesting a harsher sentence.

2.5 Negative impacts according to Crown attorneys and judges

The periodic and increasing crowding of the courts is one of the negative effects noticed by Crown attorneys and judges. Since the constitutionality of the statute was challenged, several prostitutes have pleaded not guilty and had their cases put over pro forma. But these adjournments regularly coincide with appearances of prostitutes detained after a crackdown. The combined effect of these two measures causes such bottlenecks in the courts that some detainees have to be released without trial.

Crown attorneys also mentioned that the imprecise wording of paragraph (*c*) makes it very easy to challenge the constitutionality of the law. In fact, as early as January 17, 1986, four days after enforcement began, the police arrested a transvestite/transsexual who argued that the law was unconstitutional. His case was associated with that of Suzanne Cazès, whose case we described earlier. Their cases are currently before the Superior Court and, up to now, have required a dozen court appearances.

The fact that lawyers in private practice and legal aid lawyers are working together on this challenge has had an unforeseen effect. More and more prostitutes have entered not-guilty pleas and had their cases put over pro forma until after September 30, 1987. Since *Massé J.*, most of them have continued to plead not guilty and had their cases put over again, until March 1988 in some instances. All these delays, as well as periodically clogging the courts, delay the deterrent effect of conviction and sentences that much more.

2.6 Negative impacts according to defence lawyers

Defence attorneys also say that enforcement brings about crowding in the courts. But they stress that the main impact is the unjustifiable restriction of freedom of expression and association. According to them, the law is out of all proportion to the offence.Prostitution is not illegal and does not cause a nuisance since it pursued in a commercial district. Furthermore, no prosecutor has attempted to prove this presumed nuisance; they prefer to use paragraph (*c*).

They mention the increased danger of practising prostitution while under district restrictions, which force prostitutes to work in isolation and in secret where they are at the mercy of criminals.

3 Summary of recommendations

If we look only at the majority viewpoint in each of our eight target groups, we conclude that most recommend decriminalization of street prostitution, along with provincial regulations or municipal by-laws which would regulate it as a business and control associated nuisances. This was true for judges, defence attorneys, social workers, prostitutes, clients and pimps.

Only the Municipal Court attorneys recommended keeping the law as it stands. The police are split: one half for criminalization, the other half opposed.

A majority of respondents also suggested decriminalization of small brothels and preventative control of venereal disease. It is obvious that everyone, except pimps, want stricter, more easily enforceable laws to against exploitive pimps.

B EVALUATION OF THE LAW IN TROIS-RIVIÈRES

Introduction

We were also given a mandate to evaluate the law in Trois-Rivières, because social control of prostitution was studied there in 1984 (Gemme *et al*, 1984) during research for the Fraser Committee.

In order to put the reader in the picture at once, let us state that street prostitution is almost non-existent in Trois-Rivières. Only four arrests have been made under section 195.1(1)(*c*) since Bill C-49 was given Royal Assent. Ten other charges were laid under section 195.1(1)(*c*) for soliciting in bars.

I METHODOLOGY

Our information was obtained from ten interviews with representatives of the police, the legal system, social agency representatives who worked with young people, from an analysis of the court rolls and classified advertisements, and from two observations.

1 Choice of respondents

1.1 Police

Police enforcement is done exclusively by the municipal police force; a single officer out of 116 looks after morality cases along with other investigations.

As well, the Quebec Police Force vice squad, when asked, handles prostitution cases in bars or juvenile prostitution rings. These are cases which require more sophisticated or complex investigative methods.

We questioned the captain of the criminal investigation division of the municipal force, his lieutenant and the officer dealing with morals cases. As the vice squad had carried out two operations in bars, we questioned the supervising officer and one of his five subordinates.

1.2 Crown attorney and judge

Prostitution cases are heard at the Court of Sessions of the Peace. On the recommendation of the chief prosecutor, we interviewed the attorney most involved in the 14 cases of soliciting.

As for judges, the coordinating judge (there is no longer a chief justice in Trois-Rivières) referred us to one who had recently ruled on two section 195.1 cases in bars.

1.3 Social agency representatives working with young people

To find out what changes have taken place since January 1986 regarding services requested by or offered to prostitutes, and to get an idea of juvenile prostitution, we interviewed three people referred by the Centre des Services Sociaux du Centre du Québec (Central Quebec Social Service centre):

- an official at the Youth Protection Branch responsible for reporting youths at risk;
- a human relations worker responsible for taking youths into care;
- a CEGEP (community college) teacher who, for several years, ran a home for troubled youths, some of whom were girl prostitutes.

We must point out that none of the services applied specifically to adult prostitutes. Figure 5 shows the breakdown of our respondents.

FIGURE 5

RESPONDENTS IN TROIS-RIVIÈRES (N=10)

Police	
- Municipal Police	3
- Quebec Police Force	2
Judge at the Court of Sessions of the Peace	1
Crown Attorney	1
Representatives of social agencies working with young people	3
Total	10

2 Form of interviews

The police and the attorneys responded to the questionnaires presented in appendices 1, 2 and 3. As the judge had to be interviewed over the telephone, he confined himself to explaining the two recent judgments in the cases of section 195.1 in bars. The social workers answered ad hoc questions on juvenile prostitution.

3 Analysis of Court records

We used the Court of Sessions of the Peace records, since they were accessible and sufficiently complete for the aims of our study.

4 Analysis of classified advertisements

We wanted to see if enforcement had caused street prostitutes to move into other kinds of prostitution to be found in the classified advertisements, such as escort agencies, massage parlours and so on.

Since we did not find any advertisement of this kind in 1984, we only needed to look at the 1987 ads to answer our question. We collected ads from June 3, 4 and 8, 1987.

5 Direct observation

In addition to information gathered from our subjects, we also did a round of observation with the specialized investigator from the municipal police force and visited the bars with one of the represnetatives from social agencies as our guide.

II THE LAW AND PROSTITUTION PRACTICES

To determine the law's impact of the law on prostitution practices, we interviewed the police, the Crown attorney, and made observations in the streets and bars.

1 Impact on the number of prostitutes

According to our respondents, the number of prostitutes has remained unchanged since January 1986. Before the bill became law, there were about five or six prostitutes. This was still true. There are no homosexual prostitutes on the street. They operate in bars, as they did before 1986.

During our observations on the street, with the police officer and on our own, we did not see a single prostitute, male or female. We must point out, however, that it was a rainy night.

As for juvenile prostitutes, the police did not know any, but estimated that five or six girls and boys occasionally prostituted themselves.

Prostitution in bars still goes on, especially in bars with nude dancers, where the girls offer private dances in cubicles adjacent to the main room. During these dances, masturbation or fellatio can be had for $15 or $25.

This seems to be a new form of prostitution for Trois-Rivières itself, but the police attribute it to a change in mores, rather than the effect of the law.

2 Impact on movement to other locations or kinds of prostitution

The law has no effect on the mobility of street prostitutes. They still work in the same area. At most, they have moved a few hundred metres onto rue des Forges, after some old buildings which housed bars were torn down on rue du Fleuve.

We should make clear that the razing of the bars and hotels on rue du Fleuve has changed the area appreciably. Before they were torn down, prostitutes operated out of, or in front of, these bars where sailors, among others, came to relax. The area is now a huge construction project with no bar, hotel or restaurant and so is not a very promising area for street prostitution.

There has been no movement into new kinds of prostitution. In fact, checking the classified advertisements of June 3, 4 and 5, 1986 in the *Nouvelliste*, we confirmed that there are none for massage parlours, escort agencies or specialized services. The city seems to be too small for such businesses to operate anonymously. As for the nude dancers, they are sent in rotation by agencies in Montreal or Québec City.

3 Impact on other prostitution practices

There has been no change in practices; fellatio in a car is still the principal service. The prostitutes still work alone, and, in spite of the fact that the street where prostitution is practised is more deserted since the demolition work, their safety would not seem to be more threatened.

Since only two operations have taken place in 17 months, the prostitutes and clients have not had to develop any particular strategies.

Finally, the prostitutes do not have pimps.

4 Impact on associated criminal activity

Our respondents said there has been no change in this area. There were no links with organized crime before the bill and this remains the case. Prostitution appears not to pay as well as drugs or managing a nude dancer agency.

Police have not received a complaint about criminal activities associated with prostitution since January 1986.

III THE LAW AND POLICE AND JUDICIAL ENFORCEMENT SYSTEMS

1 Street prostitution control practices before the adoption of Bill C-49

The investigator on the municipal police force, who had 16 years of experience in morals cases, could not remember when the last case came up prior to Bill C-49, but it was certainly before 1978.

Nor has the town of Trois-Rivières ever considered the problem to be serious enough to warrant a municipal by-law.

2 Analysis of the practices and perceptions of police and intervenors in the court system

2.1 Police

2.11 Impact of the law on street prostitution policies

The law has not changed police policies. The priority and the time allocated to prostitution remain the same, 0 on a scale of 10. Investigators and constables are only very occasionally given special assignments. An investigator may be given a two-hour assignment to check for prostitution or gross indecencies; the latter is of most interest.

Preparing a case which requires surveillance and tailing is too expensive, and prostitution is carried on too irregularly to spend any time on it. That is why there is no pressure and there are no set objectives.

2.12 Impact of the law on formal organization

From the preceding facts, it follows that there has been no change in organization or staff, no special unit has been created and no policewoman has been hired by the force. Only a single investigator works on morality cases from time to time.

The police also believe it is necessary to arrest the prostitutes and the client to have credibility in court. For this reason, they do not use undercover work against prostitution.

2.13 Impact of the law on police methods

2.131 Paragraphs of s.195.1 used

Only paragraph (*c*) has been used in the cases of section 195.1 in the street and in bars.

2.132 Relations with Crown attorneys

The municipal police had only one meeting with the attorneys and were satisfied with the results, but felt it would be costly in manpower and money to gather evidence. Gathering needed evidence to prove that a person is a prostitute needs about twenty hours of surveillance.

The respondents from the Quebec Police Force (provincial police) thought that Crown attorneys were insufficiently trained with regard to prostitution. At the time of operations in bars with "special" nude dancers, the Crown attorney had refused to lay a charge under section 193.2, despite three weeks of surveillance for this purpose. He felt there was insufficient evidence and decided to charge the dancers under section 195.1(1)(*c*). The first two accused pleaded not guilty and were acquitted.

2.133 Evidence

Several months after the law came into effect, the investigator from the municipal police met with one of the Crown attorneys to familiarize himself with evidence requirements. The discussions established the importance of:

- arresting the prostitute and the client at the same time so that the police officer maintains credibility with judges;
- arresting the suspects in the act in order to prove that previously observed communication did concern prostitution;

- being able to prove that the woman is really a prostitute and not a girlfriend, by observing the girl offering services on the street on several occasions;
- getting a statement from the client in the event the prostitute denies the facts.

2.134 Offenders targeted

In the street prostitution cases, both prostitutes and clients were arrested. As there is no homosexual street prostitution in Trois-Rivières, only heterosexual prostitutes and their clients were targeted.

2.135 Rate of charges

After the four arrests for street prostitution, the four persons were charged, making a rate of charges of 100%.

2.136 Places where s.195.1 is applied

According to our respondents, the law should not be applied except for soliciting in the street. The investigators from the Quebec Police Force, against their will, had to change charges under section 193.2 to charges under section 195.1(1)(*c*) in bars.

2.137 Investigations into other kinds of prostitution

Enforcement has not caused an increase or decrease in investigations of massage parlours or escort agencies because these do not exist in Trois-Rivières. As to operations in clubs featuring nude dancers, the Quebec Police only carry these out after a complaint, which is very rare.

Frequency of investigations into bawdy-houses is directly linked to budget. Several years ago, the staff of the vice squad was reduced from 11 investigators to five. Previously, the Quebec force was able to visit each club in its territory at least once a year. Now, they only visit if there is a complaint and concentrate their efforts on drugs.

2.138 Special strategies

In order to get a statement from a client, the municipal officers wonder aloud, in front of the client, whether they will bring a charge under section 195.1(1)(*c*) or one of gross indecency. They say this tactic convinces the client to sign a statement.

2.14 Problems relating to the enforcement of the law

Police say the main problem is the cost, which is too high for this kind of police action. In fact, each of the two operations required about 20 hours of observation to prove that the suspect had communicated with several different persons to offer sexual services. The chief estimated the cost of an operation at about $1,000 and the fines in the two cases were from $75 to $100.

2.15 Perceptions

2.151 Aspects of street prostitution requiring police intervention

All our respondents stated that street prostitution is not a problem, that it is practised very little, and that citizens do not seem bothered by it. Since the law came into effect, only two tailing operations have taken place, involving two couples in the summer of 1986.

The police estimate that after three weeks of surveillance, they identified no more than two or three prostitutes, and these did not work on a regular basis. The operation seemed too costly. "To use nine investigators to investigate a few cases under section 195.1 would be like using a bomb to kill a fly," one policeman said to us.

The public is not worried about street prostitution. Since only a single complaint was made in 18 months, the police prefer to spend their time on other tasks more in line the concerns of the townspeople.

The only two aspects of street prostitution which would justify action would be provocation which was too visible and presence of juveniles.

2.152 Value of the law

2.1521 Advantages and disadvantages

The police think that the law is well drawn up, that it is a more useful tool than the old section 195.1 and is fairer in that it provides for the client to be arrested. On the other hand, they think that sentences are not harsh enough to deter the client or prostitute.

2.1522 Achievement of objective

The police do not believe the law is a deterrent since they cannot tighten their enforcement as prostitution not a problem. As well, sentences seem to too light to affect the client or prostitute.

Consequently, the law seems not to be achieving its goal of lessening and combatting street prostitution.

2.16 Recommendations

Since street prostitution is not a problem, two of the three officers from the municipal force would recommend decriminalization, arguing that it will continue in any case. They think, however, that exploitation of prostitutes by pimps needs to be prevented. The other officer disagreed and wanted prostitution to be treated as a more serious crime because he sees prostitution as a moral decline.

All three wanted to see measures to control STDs and make treatment compulsory.

2.2 Crown attorney and judge

In Trois-Rivières, cases of prostitution are heard in the Court of Sessions of the Peace. Thus, we received the necessary information for our study from an attorney and a judge from this court.

The attorney was a man with eight years' experience in his field. Since Bill C-49 came into effect, he has been involved in six of the section 195.1(1)(*c*) cases.

The judge has had ten years' experience as a judge and eight as a Crown attorney. He sat alternately at Trois-Rivières and Quebec City and has presided at least once in eight of the 11 cases of section 195.1(1)(*c*).

2.21 Impact of the law on prosecution methods

2.211 Evidence required

Since police methods are established on advice from attorneys, the evidence they require is the same mentioned by the police.

However, although the police had not obtained statements from the clients, the attorney agreed to charge the dancers. He believed the testimony of the undercover officers agents would be sufficient.

2.212 Rate of charges

In the years before the law, no charges were laid for public soliciting and, as there was no city by-law, no prostitutes or clients were arrested.

Since the law came into effect, two operations against street prostitutes have been carried out and, in each case, prostitutes and clients were charged.

2.213 Places where s.195.1 is applied

Section 195.1 was used indirectly after "Operation Rose" in the two bars with nude dancers. The operation's goal was to bring about charges of keeping or being found in a common bawdy-house (section 193.1 and 2). After reviewing the evidence, the prosecutor decided to charge seven of the ten dancers under section 195.1(1)(*c*). The clients were not charged, having stated that they had only asked for a dance in private, no more. The three other dancers had not solicited the undercover officers.

2.22 Difficulties encountered

The prosecutor felt the sentences were too lenient to act as a deterrent. He would prefer $250 fines.

The attorneys also find it difficult to have the validity of section 195.1(1)(*c*) recognized in bars and to have it accepted that communication, in the meaning of the new section 195.1, does not necessarily involve soliciting in a way that is harassing or a nuisance.

2.23 Perceptions

2.231 Applicability of section 195.1 other than on the street

As just noted, the attorneys considered that the definition of a public place, as stated in section 195.1, means that the law can be used inside bars. In contrast, the judge believed that the intent of the legislator was to control nuisance in the streets and not solicitation in bars with nude dancers. It would be difficult to believe that soliciting in these establishments could be a nuisance to the persons present.

2.232 Law's value

Only the attorney agreed to answer this question. The judge felt his position as a justice called for a certain neutrality.

The attorney saw more advantages than disadvantages to the law. Before the law, there was no way to prosecute under the old section 195.1. Now the burden of proof is less onerous.

On the other hand, he deplored the fact that soliciting is considered a summary offence. In his view, this minimizes the objective seriousness of the crime in the eyes of the public and judges. The maximum sentences of six months and $2,000 are rarely imposed, except on a few chronic offenders.

As to the law's goal, the attorney did not believe it is successful in controlling solicitation in public places. Clearly, he bases his opinion on the acquittal of nude dancers in bars.

2.24 Recommendations

The attorney would recommend that Parliament make communication concerning sexual services an indictable rather than a summary offence. He thinks the deterrent effect would be far greater.

He recommends that the concept of communication be clarified so that judges will not be tempted to throw out a case of communication, as in the case of nude dancers, because the communication was not pressing or a nuisance. He feels that some judges are apt to keep interpreting communication in terms of *the Hutt decision*..

3 Summary of a significant judgment

The judge we interviewed had just handed down a judgment which could set a precedent, if upheld by the Superior Court. He acquitted the accused in the two cases involving nude dancers. He felt the Crown had not proved that the "special dances" were a nuisance to the clients, who know what goes on in these establishments. And since they did not lodge a complaint, it is difficult to maintain that these dancers disturbed the public peace.

In his opinion, section 195.1(1)(*c*) was intended to control soliciting in the street, in the same way as the former section 195.1, but not in bars.

This judgment was appealed and heard on December 21, 1986 by Mr Justice Claude Jourdain of the Superior Court. The judgment handed down in January 1988 was in the Crown's favour and the defendant did not appeal.

4 Analysis of police statistics and Court records

4.1 Statistics on offences relating to prostitution

Table 84 shows the level of activity by the municipal police and the Quebec Police Force (Trois-Rivières) from 1985 to 1987.

This table shows that the law has had no effect on enforcement, since only four arrests for street prostitution were made in 18 months. Had it not been for the special circumstances described above concerning "Operation Rose", these four would have been the only charges laid under section 195.1 during this period.

TABLE 84

NUMBER OF PROSTITUTION-RELATED CHARGES IN TROIS-RIVIÈRES IN 1985-1986-1987

A - Municipal force

Offences	1985	1986	1987	Total
193.(1)	0	0	0	0
193.(2)	0	0	0	0
195.(1)(a) to (j)	0	0	0	0
195.1(1)	0	4	0	4
Total	0	4	0	4

B - Quebec Police Force

Offences	1985	1986	1987	Total
193.1	0	2	0	2
193.2	0	1	0	1
195.(1)(a) to (j)	0	0	0	0
195.(1)	0	10	0	10
Total	0	13	0	13
Grand Total	0	17	0	17

The absence of activity under sections 193 and 195 is also noticeable. Enforcement has not had an impact on investigations into activities related to prostitution.

4.2 Judicial statistics

In order to obtain some information on the characteristics of those arrested and on how the judicial process worked, we consulted the rolls of the Court of Sessions of the Peace.

4.21 Sociodemographic characteristics of the accused

Table 85 presents certain sociodemographic characteristics of clients and prostitutes.

We can see that no homosexual prostitutes were arrested and that the prostitute-dancers came mainly from Montreal.

4.22 Pleas, judgments and sentences

The four persons accused of communicating on the street pleaded guilty at their first appearance. Three were fined $100, the fourth was fined $75 and given one year's probation.

Among the nude dancers, only one of the seven pleaded guilty to the two charges against them and she was fined $100 for each count. The six others pleaded not guilty and were all acquitted.

Table 86 shows clearly how section 195.1 cases proceed through the courts. Note that the fines imposed vary from $75 to $100.

We may also add that two of the accused failed to appear and were arrested, after a bench warrant was issued. The two were detained before their appearance; the first pleaded guilty and the second not guilty. The latter was released on her own recognizance and $500 bail.

Finally, the average number of appearances for the prostitutes was 3.2, while the two clients pleaded guilty and were sentenced at their first appearance.

TABLE 85

SOCIODEMOGRAPHIC CHARACTERISTICS OF PERSONS CHARGED UNDER SECTION 195.1 IN TROIS-RIVIÈRES FROM JANUARY 1986 TO APRIL 1987

Sociodemographic characteristics		Prostitutes (N=9)	Clients (N=2)
A-	Sex		
	male	0	2
	female	9	0
B-	Age		
	under 18	0	0
	18 to 24	5	0
	25 to 34	4	0
	35 and over	0	2
	Average age	24 years old	48 years old
C-	Place of residence		
	Trois-Rivières and suburbs	4	0
	Outside Trois-Rivières	5[1]	2

[1] Four of them were dancers from Montreal.

TABLE 86

TYPES OF PLEAS, JUDGMENTS AND SENTENCES FOR CLOSED CASES UNDER SECTION 195.1(1) FROM JANUARY 1986 TO AUGUST 1987

		Prostitutes (N=9)	Clients (N=2)
A-	Plea		
	guilty	3	2
	not guilty	6	0
B-	Judgment		
	guilty	3	2
	not guilty	6	0
C-	Sentence		
	$75 with one year of probation	1	0
	$100	1	2
	$200	1[1]	0
	Total fines	$475.	$200.

[1] One of the dancers was fined $100 for each of the two counts against her.

IV IMPACT OF THE LAW ON JUVENILE PROSTITUTION

1 According to police

There appear to be no cases of juvenile prostitution on the street. However, on rare occasions, the police have received information about possible prostitution in shopping centres. This information proved to be unfounded when it was checked out. They suspect that there may be some cases, but they are occasional occurrences – after a juvenile has run away, for example. On the other hand, police believe young runaways are more apt to head for Montreal, since Trois-Rivières is too small a city to hide in.

In the event that they come in contact with a juvenile, the police would prefer to refer him/her to the Youth Protection Branch.

2 According to social workers

The two people from the social services centre and the Youth Protection Branch confirm that there is no juvenile street prostitution, especially since Terrasse Turcotte near the port was demolished.

Only one case has been reported to the Youth Protection Branch since January, 1986. As in other places, the prostitution cases are not reported as such. Authorities are informed about other "behavioural disturbances" (section 38 of the *Youth Protection Act*), such as cases of incest, sexual abuse, defiance of authority, or drugs. Prostitution may not even be mentioned to the social worker. Only after several meetings with the social worker will some young people dare to admit they have been practising prostitution. This information will not always be put in their file, which is why it is impossible to obtain figures on the incidence of juvenile prostitution cases referred to the YPB. Our two social workers were unable to hazard a guess at the numbers.

They also explained to us that since budget cuts, the number of files per worker has greatly increased and that youths who are referred to them because of prostitution would go to the bottom of the pile. First priority is given to cases of sexual abuse, child neglect and self-destructive behaviour.

The CEGEP teacher who used to run a group home states that about ten youths, from 14 to 16, may occasionally practise prostitution in arcades, in certain popular restaurants and on the road which circles Ile St-Quentin. It may also occur in shopping centres, public pools and sports centres. He believes that police underestimate the incidence of juvenile prostitution, because when there is an operation involving young people, the clients are charged with gross indecency and the youths used as witnesses. They are seen as victims, rather than accomplices.

In his opinion, the reasons why the police do not intervene more often are as follows:

- it is difficult to find an undercover officer who looks young enough to arrest clients of juveniles;
- it would be embarrassing to catch people in the act when there is a risk of arresting well-known people;
- juvenile prostitution may not be practised on a regular basis and not always for money. Some young people may agree to sexual acts for a meal and a place to stay.

In conclusion, the law has not changed anything with regard to juvenile prostitution. Young people are not brought into the justice system more often than before.

V IMPACT OF THE LAW ON DEMAND FOR SOCIAL SERVICES

There is no social service specifically aimed at adult prostitutes. They obtain their services like any other citizen, through the usual agencies. Supply and demand for services has not increased or lessened since the law has been enforced.

Conclusion

After interviewing five police officers, one Crown attorney, one judge and three social workers, we conclude that prostitution is not a problem in Trois-Rivières. Only four arrests have been made under section 195.1(1) since the law was given Royal Assent. The maximum number of street prostitutes is estimated at a half dozen who work occasionally.

Prostitution occurs more often in bars where, according to recent court decisions, the law cannot be enforced, since the Court ruled that communication for purposes of sexual services inside a bar with nude dancers was not nuisance.

In cases of street prostitution, it is believed that evidence requires that the client and the prostitute be arrested in the act, that the character of the prostitute must be proved by lengthy surveillance and that a statement must be obtained from the client. Therefore, there is no question of using undercover police.

The client/prostitute arrest ratio is one to one, the success rate for charges and convictions is 100% and the fines are around $100, which is deemed to be too low by police and Crown attorneys.

Prostitution in bars is rarely dealt with, since there are not enough personnel to get evidence of a common bawdy-house.

The other forms of prostitution which would appear in classified advertisements do not exist.

Supply and demand for social services for prostitutes has not been affected by the enforcement of the law and juvenile prostitution, while it exists, is marginal and covert.

C EVALUATION OF THE LAW IN QUEBEC CITY

Introduction

The City of Québec was also included in the study since it was part of the 1984 research (Gemme *et al*, 1984) and also because the City had asked for a more effective federal law to combat street soliciting.

I METHODOLOGY

Our information was obtained through 14 interviews with representatives of the police and judicial systems, juvenile prostitution specialists, a citizens' group and a merchant, through analysis of police files and classified advertisements, and from two observations.

1 Choice of respondents

1.1 Police

Police enforcement against street prostitution is done exclusively by the Québec City municipal police, via the Unité Spéciale d'Intervention (USI) (special intervention unit), where 11 officers work on prostitution cases along with numerous other duties (drugs, criminal investigations and so on).

As well, the Quebec Police Force (provincial police) vice squad will intervene when requested in cases of common bawdy-houses, especially escort agencies whose head office is outside the city (in Ste-Foy (a suburb), for example).

At the municipal police, we interviewed the inspectors who are responsible for criminal investigations, surveillance and patrols; the supervising sergeant of the USI and an investigator from this unit.

At the Quebec Police Force, we interviewed the chief of the vice squad.

1.2 Municipal Court Crown attorney and judge

Cases of prostitution are heard in Municipal Court, which acts as a court of summary proceedings in the sense of Part XXIV of the *Criminal Code*. We interviewed the only Crown attorney (chief attorney) and the chief justice, who sits with another colleague.

1.3 Juvenile prostitution specialists

We interviewed an attorney from Juvenile Court, as well as three representatives from Projet Intervention Prostitution de Québec (PIPQ) (action project on prostitution in Quebec).

Table 6 shows the breakdown of our respondents.

FIGURE 6

RESPONDENTS IN QUEBEC (C=14)

Police:	
- Municipal force	4
- Quebec Police Force	1
Municipal Court judge	1
Municipal Court attorney	1
Juvenile prostitution specialists	4
Citizens' group	2
Merchant	1
Total	14

2 Form of interviews

The police, the attorney, the judge and the juvenile social workers responded to the questionnaires presented in appendices 1, 2, 3, 4 and 6. The representatives from the citizens' group and the merchant answered ad hoc questions.

3 Analysis of police files

The municipal police force classify files by incident and, for our study, had prepared all the files on street prostitution incidents from February 9, 1986 to June 4, 1987. In each of these files, a summary of court proceedings was included. In all, 120 files were analyzed.

4 Analysis of classified advertisements

In order to see whether enforcement had encouraged a movement of prostitutes towards offering services through classified advertisements, we analy the ads which appeared in *Le Journal de Québec* for June 10, 1985, June 10, 1986 and June 10, 1987. *Le Soleil* refuses to publish such advertisements.

5 Observation

We had a chance to be present at one of the rare crackdowns carried out by the USI, during which the criminal investigations inspector acted as an undercover agent. We were present at the arrest of five heterosexual prostitutes and three male prostitutes.

We also observed heterosexual prostitution practices in the St-Roch district.

II THE LAW AND PROSTITUTION PRACTICES

1 Brief description of street prostitution in Quebec

Heterosexual prostitution is concentrated in the St-Roch district in lowertown. About 20 prostitutes walk the streets in the rectangle bounded by Notre-Dame-des-Anges, St-Joseph, St-Anselme and Caron. The women work in teams of two or three from 11 am to 2 pm, from 4 pm to 10 pm, and after midnight. But towards 1 am, there are not many left. The main service offered is "la pipe" (fellatio), with the possibility of "avaler" (swallowing) for a small extra fee. Prices are around $20 for a "pipe" in a car and $40 for intercourse in a room. The prices are about the same for the homosexuals, who work mainly after midnight.

Homosexual street prostitution is found on d'Aiguillon and St-Jean near Ste-Geneviève. The men stand in the doorways of bars or near bus-stops, hitchhiking. Often the exchange will take place in the prostitute's room in the district. Usually, they work alone.

2 Impact on the number of prostitutes

According to police and social workers from Projet Intervention Prostitution de Québec (PIPQ), enforcement has had no effect on the number of prostitutes. There are few police operations (11 in 17 months), they have resulted in few arrests (120) and fines are very low (about $100). Furthermore, the prostitutes seem to have no other means of survival.

The total number of adult prostitutes is variously estimated at anywhere from 200 to 400.

3 Impact on movement to other locations

Since operations are infrequent and police do not like district restrictions, no great movement to other parts of the city has been observed. At most, the prostitutes move out a street or two to du Roi and de LaSalle the day after a blitz.

4 Impact on movement to other kinds of prostitution

All respondents noted a proliferation of massage parlours and, still more, of escort agencies since 1985. Most of these new services seem to involve only one or two street prostitutes whose "class" would prevent their being hired by traditional agencies. According to the Quebec Police Force, these phoney agencies are made up of street prostitutes who prefer safety and independence. They do not want to pay any of their earnings to an agency owner or receptionist.

To evaluate this change, we analyzed the classified advertisements for sexual services in *Le Journal de Québec* for June 10, 1985, 1986 and 1987. Table 87 shows only the changes in number of prostitution services. We omitted services offering sexually explicit telephone conversations (there were 2, 4 and 3 of this kind of service in 1985, 1986 and 1987 respectively). We note an appreciable rise in the number of services offered since 1985. There was an increase of 56.9% from 1985 to 1986, and a 96.6% increase from 1985 to 1987, which seems to prove our respondents right.

Table 88 shows prostitution classified by kind for the years studied. It can be seen that, compared to Montreal, there were few massage parlours at the beginning of the period. On the other hand, escort services have always been relatively numerous. In 1987, there were 96 in Québec, as opposed to eight in Montreal. We also noticed that several advertisements (between 20 and 30, according to year) involved only one person. This service is almost non-existent in Montreal.

TABLE 87

CHANGES IN THE NUMBER OF PROSTITUTION SERVICES OFFERED IN *LE JOURNAL DE QUÉBEC*, 1985 TO 1987

Year	Number of ads	Change (%) in comparison to 1985
1985	58	-
1986	91	56.9
1987	114	96.6

TABLE 88

CHANGES IN KIND OF PROSTITUTION OFFERED IN CLASSIFIED ADVERTISEMENTS IN *LE JOURNAL DE QUÉBEC*, 1985 TO 1987

Service	Massage (agency)		Escort (solo)		Escort		Prostitution M[1]		Total	
Year	n	%	n	%	n	%	n	%	n	%
1985	3	5.2	32	55.2	20	34.4	3	5.2	58	100
1986	6	6.6	56	61.5	25	27.5	4	4.4	91	100
1987	18	15.8	51	44.7	29	25.4	16	14.0	114	100[2]

[1] Homosexual prostitution.

[2] 99.9 rounded off to 100.

According to police, most of the agencies operate outside the City of Quebec, even though several of the telephone numbers are city exchanges. As soon as a message is received, it seems to be passed on to a service outside the city or to a cellular telephone.

Because police operations against street prostition are relatively infrequent, it is difficult to establish a causal link between enforcement and the increase in services offered in classified advertisements. It may only be a matter of financial gain, allied with the inability of the police to control this kind of service.

5 Impact on other practices

Police have only noticed two other changes in prostitution practices. The first is that prostitutes in the street help each other more to identify undercover agents. The second is that they work less between 9 pm and 11 pm, and more after 11 pm, because they know that crackdowns generally take place before 11 pm.

The social workers from PIPQ feel the milieu has become more violent and dangerous. Prostitutes are considered "less than nothing" and are often abused by police trying to get information about other crimes. Prostitutes take greater risks by inviting clients to their rooms because the parking lots are watched by police. Last, transactions with clients are quicker.

There has been no change with regard to street pimps, who are no more numerous than before 1986. According to police, the lowertown prostitutes have never been and are not now managed by pimps.

6 Impact on related criminal activity

Street prostitution seems not to be lucrative enough to interest organized crime. The only serious related crime is the use of drugs.

III THE LAW AND POLICE AND JUDICIAL ENFORCEMENT SYSTEMS

1 Enforcement practices against street prostitution before the adoption of Bill C-49

Quebec City's municipal police have been paralysed since *the Hutt* decision and have never attempted to use a municipal by-law to combat public soliciting. The city's Crown attorney, on advice from the Department of Justice, advised police not to use the old section 195.1 unless soliciting was harassing.

2 Analysis of practices and perceptions within the legal system

2.1 Police

2.11 Impact of the law on street prostitution policies

The law has in no way changed police policies. Police view it as just another law to enforce. As it is difficult and expensive to enforce and they deem it a low priority compared to other laws, combatting prostitution is halfway down their list of priorities, after drugs, assistance with criminal investigations and residential robberies. They now spend 10% to 15% of their time on street prostitution, about four hours per week, and generally act only on complaints from citizens, business people or the mayor's office.

2.12 Impact of the law on formal organization

The law has not brought about any change in organization or personnel. Street prostitution is handled by the Unité Spéciale d'Intervention (USI) (special intervention unit), attached to the Division de la Sécurité du Territoire (territorial security section). It is made up of a sergeant and 10 investigators who take their orders from a coordinating committee.

The USI has no female staff, since recruiting is done by seniority and policewomen have not accumulated enough. It should also be pointed out that there are only four policewomen on the force. If necessary, the USI could borrow them to arrest clients, but two do not want to do this kind of work and the other two work on vehicle patrols. In 17 months, the USI has only used policewomen once, during "Operation Reine", which led to the arrest of 26 clients in September 1986.

2.13 Impact of the law on police practices

2.131 Paragraphs of section 195.1 used

Paragraph (*c*) is used when a client is arrested, but for prostitutes, paragraphs (*a*) and (*c*) are used.

2.132 Relations with Municipal Court attorney and evidence required

Relations are very close and the prosecutor has provided verbal and written instruction for the police (Appendix 31). The police think the gathering of evidence is demanding and expensive. Because they have few unmarked cars and undercover officers, their cover is soon blown. This makes it necessary to catch people in the act. While 54 arrests were made by an undercover officer in 1986, only seven were made in this way in 1987.

The prosecutor asks for either evidence of communication or being caught in the act which requires uninterrupted surveillance of the suspects and a written statement from one of the offenders. In fact, even if the reasons for communication seem obvious, they are not enough without a statement to support them.

2.133 Offenders targeted

Heterosexual prostitutes are more often the target of police action than homosexual prostitutes, because the police operate on the basis of complaints. They are more often registered in regard to the prostitutes in the Notre-Dame-des-Anges district. Furthermore, work in the street for police ends about 11 pm, which works to the advantage of homosexual prostitutes. They usually start coming out about then. Consequently, since 1986, 61 female prostitutes have been arrested, compared to 11 male prostitutes.

As for clients, they are not a priority target, given the lack of female staff for undercover work. Except during a particular operation, such as "operation Reine", clients are only arrested by catching them in the act. These arrests lead to charges in about half of the cases, for the offenders often refuse to make a statement. Thus, since 1986, 72 prostitutes have been arrested, compared to 48 clients. Twenty-six of the clients were arrested during "Operation Reine", which was aimed specifically at clients. Its goal was to improve a disproportionate arrest ratio.

2.134 Rate of charges

In the case of undercover police work, 100% of arrests led to charges. By comparison, arrests for being caught in the act led to charges barely 50% of the time, because offenders deny that money has changed hands.

2.135 Places where s.195.1 is applied

Neither the municipal police nor the Quebec Police Force has ever used section 195.1 other than on the street and they did not believe they could do so.

2.136 Investigation into other forms of prostitution

While police have noticed an increase in numbers of massage parlours and escort agencies, they do not conduct any more investigations than before. No complaints are laid, evidence is too difficult to collect and priority is given to drugs.

2.137 Special strategies

2.1371 Use of undercover officers

About 55% of arrests are made using this method. However, because their numbers are so few, police have had to resort to using disguises. On two different occasions, one being the operation at which we were present, the chief inspector, criminal investigations, was the undercover officer because he is one of the few officers unknown to offenders. Because of this, the number of operations by undercover officers dropped from 54 in 1986 to seven in 1987.

2.1372 Arrest in the act

The prosecutor insists on this procedure in order to get a statement from the client, who will be too embarrassed to think up other explanations. Since they have been arresting clients in the act, the success rate for these operations has improved. In 1986, the police had to release 22 out of 29 clients who had been tailed. In 1987, only four of 15 surprised in the act were released because they would not make a statement.

2.1373 Blitzes

Most arrests were made after blitzes. There were eight of these in 1986 and we were present at the third of the year in 1987. These crackdowns last between two and three hours. They result in the arrest of between five and ten prostitutes. Costs are estimated at about $1,000, including police salaries, patrol cars, gas and time spent in preparing for the operation. These operations, which interrupt other, more important ones, are not very popular with police.

2.1374 District restrictions

District restrictions had only been requested by police on two occasions; they prefer to control prostitutes in a known area.

2.1375 Other strategies

Since municipal police cannot take truly effective action against clients with section 195.1, because of lack of female staff and because clients caught in the act refuse to make statements, they occasionally launch "road safety" operations. After observing clients circling slowly in a vehicle looking for a prostitute, they stop him and inspect his vehicle visually. The client may find himself being fined up to $200 for not having signalled a turn, not wearing his seatbelt and so on, as well as having 48 hours' notice to fix such things as worn tires, burned-out lights and defective exhaust pipes. The police warn the client that they know why he is cruising the area and advise him to stay away. These fines, more costly and disruptive than a simple fine under section 195.1, seem to be enough to deter clients from soliciting from a vehicle for some time. These "safety" operations, however, are rare.

2.138 Problems related to enforcement of the law

According to police, the law is difficult to enforce. They have few officers and unmarked cars. They have to space out crackdowns, so as not to be recognized. The operations are costly. They think that fines are too low (around $100, for incomes estimated to be $2,000 to $3,000 a week). They consider these fines equivalent to a $2.50 parking ticket. Also, it is difficult to catch offenders in the act because the prostitute takes the client to an underground parking lot or warns him to deny that he has paid for the service. The police would prefer to use reasonable grounds as evidence, such as a case where a prostitute would be arrested for being seen to leave with several clients. We must also point out, having experienced it, that it is very difficult to follow people without interruption in Quebec's narrow streets.

2.14 Perceptions

2.141 Aspects of street prostitution requiring police intervention

Our respondents did not think that street prostitution was a truly serious problem. But, it must be controlled so that it does not proliferate and block streets. Furthermore, young people should know that this way of making easy money is not an acceptable lifestyle.

2.142 Value of the law

2.1421 Advantages and disadvantages

The police see more disadvantages than advantages to the law. They realize that it allows them to identify the network of prostitutes and detect other offences by clients against whom there are outstanding warrants. But the difficulty of obtaining evidence, the lenient fines and the lack of staff to enforce the law outweigh the advantages. Moreover, the present law does not allow for control of sexually transmitted diseases.

2.1422 Achievement of objective

Since the law is infrequently enforced, the intended objective cannot be achieved. But, while it has not succeeded in lowering the number of prostitutes and clients, it has helped to prevent the growth of the trade.

2.15 Recommendations

The municipal police and the Quebec Police Force support decriminalization, along with regulations to control disease, zoning and prices.

2.2 Municipal Court Crown attorney

Cases under section 195.1 are heard in Municipal Court and our respondent has dealt with all of them. He has been a prosecutor and worked on prostitution cases for eight years.

2.21 Impact of the law on prosecution policies

Appendix 31 clearly shows a policy of proceeding so as not to harm the client's family life. Use of promises to appear and the sending of subpoenas, originally intended for the client, to the police officer when he is called as a witness are encouraged. As well, it is suggested that the client have his case heard in chambers.

The attorney also told us that he intends to make more use of district restrictions in cases involving chronic offenders. He had only requested these restrictions twice since February 1986.

2.22 Impact of the law on prosecution practices

2.221 Evidence required

Obviously, this is the same as that mentioned by police: evidence relative to paragraphs (*a*) and (*c*), evidence concerning the nature of the service and the price and, as often as possible, a confession.

2.222 Rate of charges

About 90% of requests to initiate proceedings are agreed to by the prosecutor. Some cases are thrown out because a evidence is lacking.

2.223 Type of sentence suggested

He recommends a fine of $150 for a first offence and $300 for a repeat offender, either prostitute or client. But if there is a trial, he asks for $50 to $150, taking the cost of a lawyer into account.

2.224 Places where s.195.1 is enforced

Although the law has not been enforced, except on the street, the prosecutor believes that judges would accept it enforcement elsewhere.

2.23 Difficulties encountered

Except that it is almost necessary to enter a confession into evidence, the prosecutor has not encountered any difficulties.

2.24 Perceptions

2.241 Value of the law

The prosecutor did not see any disadvantage to the law as it is presently formulated. The principal advantage is that it is a tool which allows prosecution of prostitutes using evidence which is easier to obtain than under the old section 195.1.

2.242 Achievement of objective

He does not believe that the low fines are a deterrent to prostitutes, but he is convinced that clients are deterred ¯ not by the fines, but by the proceedings.

2.25 Recommendations

He recommends the status quo, if he had to choose among possible recommendations to be made to Parliament. But, faced with the choices of criminalization, decriminalization or legalization, he chooses decriminalization with control by zoning, treatment of sexually transmitted diseases and a minimum age. Finally, making prostitution a more serious criminal offence would only lead to more clemency from judges and more exacting evidence requirements, as well as making challenges to constitutionality more likely.

2.3 Municipal Court judge

Our respondent has been a judge for 18 years and heard prostitution cases throughout this time. Since Bill C-49 became law, he has presided over about 60% of the cases. In 95% of them, the accused pleaded guilty. In the others, half of the accused were found guilty after a trial.

2.31 Impact of the law on court practices

2.311 Evidence required

In his opinion, unless a client testifies that a prostitute placed herself in front of his moving car, it is almost impossible to prove anything in terms of paragraph (*a*). As to proof of communication about price and sexual services, he requires a written statement from one of the two persons, even if they were caught in the act. He does not accept circumstantial evidence because it could lead to more than one type of charge.

2.312 Bail conditions

As there are very few repeat offenders, and the police do not ask for district restrictions, the judge only requires a promise to appear. As to district restrictions, he is opposed, but says he is ready to consider them in the case of two offences, one after the other.

2.32 Sentences

He fines the prostitute and the client $100, whether or not they come to trial. Since there are few cases of repeat offenders, the fine has remained at $100.

Certain factors influence his sentences. He is more lenient in a case of poverty. But generally, he does not consider prostitution a serious crime, nor does he think that consenting adults should be treated harshly. He recalls that Christ showed clemency to Mary Magdalene and quotes Ecclesiastics Chapter 20, verse 4: "Like a eunuch trying to seduce a girl is the man who tries to do right by violence."

2.33 Problems encountered

The only problem, according to him, is that police show a lack of imagination in only arresting street prostitutes. He also feels that using undercover officers is going too far, although legally he cannot condemn it.

2.34 Perceptions

2.341 Applicability of s.195.1 other than on the street

He feels that section 195.1 could be used in bars, if there is a nuisance.

2.342 Value of the law

2.3421 Advantages and disadvantages

He sees no advantage to the law. On the contrary, he feels that it has complicated a previously simple activity. Evidence is more difficult to collect. It would have been simpler to replace the former term "solicit" by approach, offer or accost; these terms would have been less restrictive than the present expression "communicate".

2.3422 Achievement of objective

He does not believe that the bill has achieved its objective. Neither the prostitutes, nor the clients are sufficiently deterred. All that the law can change is methods of work and making contact.

2.35 Recommendations

If the law is to remain, he recommends replacing the term "communicate" with a less restrictive one. But if the debate is to be reopened, he suggests decriminalization with district zoning for prostitution. He does not believe that the world's oldest profession can be eradicated, but we can try to minimize its consequences. We cannot allow total decriminalization because that would mean an increase in prostitution which would bring about a decline in the quality of life.

3 Significant judgments

No judgment has been handed down in the Superior Court or the Quebec Court of Appeal. However, a trial court judge handed down three major decisions which have not been challenged. The first was that a charge brought simultaneously under paragraphs (*a*) and (*c*), as is the case for prostitutes, does not constitute a double and multiple count, making the charge inadmissible. The judge recognized that it was one and the same offence committed in an alternative or complementary way. The second judgment concerned recognition that the law is constitutional, despite the *Lemiski* ruling in British Columbia. Finally, the judge recognized the validity of a colloquial term for a sexual service even if this term, in itself, can mean something else. Therefore, he accepted that having asked for $30 for a "pipe" actually meant an offer of fellatio.

4 Statistical analysis of police files

4.1 Number of offences

Table 89 shows the number of arrests for prostitution made since January 1, 1983. As can be seen, no arrest leading to an appearance in Quebec Municipal Court was made before the new section 195.1 came into effect.

TABLE 89

NUMBER OF PROSTITUTION OFFENCES IN
QUEBEC MUNICIPAL COURT
FROM JANUARY 1, 1983 TO JUNE 4, 1987

Offence Year	193.1	193.2	195 prostitute	195.1 client	195.1	Total
1983	0	0	0	0	0	0
1984	0	0	0	0	0	0
1985	0	0	0	0	0	0
1986	0	0	0	49	33	82
1987	0	0	0	23	15	38

We analyzed all the police files which had led to a laying of an information against adults from February 9, 1986 (the date of the first arrest) to June 4, 1987. In all, 120 persons had been arrested and charged for violation of section 195.1. Table 90 shows the distribution of these offences, according to the involvement of the accused.

TABLE 90

STATISTICS FOR CASES UNDER SECTION 195.1 BY INVOLVEMENT ACCUSED FROM JANUARY 1, 1986 TO JUNE 4, 1987

Accused	**Female Prostitute**		**Male Prostitute**		**Client**		**Total**	
Year	**n**	**%**	**n**	**%**	**n**	**%**	**n**	**%**
1986	39	47.6	10	12.2	33	40.2	82	100
1987	22	57.9	1	2.6	15	39.5	38	100
Total	61	50.8	11	9.2	48	40.0	120	100

4.2 Number of arrests per month

Table 91 shows the breakdown of police activity since the law took effect. We notice that the month of September 1986 was busier after "Operation Reine" and that the other mini-crackdowns took place in April 1986 against male prostitutes and in June, July and August 1986 against female prostitutes. We also note that in every month of 1987, at least one client was arrested, while this only happened three times in 1986.

4.3 Ratios

Table 92 shows the male/female prostitute arrest ratio and the prostitute/client arrest ratio. It should be noted that no homosexual client had been arrested, making a ratio of 12:0. We also mention that as of September 1, 1986, 45 prostitutes and six clients had been arrested, for a prostitute/client arrest ratio of 7.5:1. The police then launched "Operation Reine", with two policewomen working undercover. During this ten-day operation, 26 clients were arrested, bringing the ratio to 1.4:1. These ratios, low for 1987, are explained by the fact that police mainly use operations involving tailing suspects and catching them in the act.

TABLE 91

NUMBER OF ARRESTS PER MONTH UNDER SECTION 195.1 BY TYPE OF ACCUSED FROM JANUARY 1986 TO MAY 31, 1987 (N=119)

Accused Month	Female Prostitute n	Male Prostitute n	Client n	Total n
		1986		
January	0	0	0	0
February	1	0	0	1
March	6	0	0	6
April	6	6	0	12
May	1	2	0	3
June	6	0	2	8
July	8	0	3	11
August	7	1	1	9
September	1	0	27	28
October	0	0	0	0
November	3	1	0	4
December	0	0	0	0
Total 1986	39	10	33	82
		1987		
January	4	0	2	6
February	6	1	5	12
March	5	0	4	9
April	4	0	3	7
May	2	0	1	3
Total 1987	21	1	15	37

TABLE 92

VARIOUS RATIOS FOR 1986 AND 1987
(AS AT JUNE 4)

Ratio Year	Female/Male Prostitute n/n	 ratio	Prostitute/Client n/n	 ratio
1986	39/10	3.9/1	49/33	1.5/1
1987	22/1	22/1	23/15	1.5/1
Total	61/11	5.1/1	72/48	1.5/1

4.4 Sociodemographic and criminological characteristics of the accused

4.41 Age

Table 93 shows the breakdown of subjects by age and involvement.

TABLE 93

PROSTITUTES AND CLIENTS BY AGE AND INVOLVEMENT (N=120)

Role	Prostitute		Client	
Age	n	%	n	%
18-24	62	86.1	1	2.1
25-34	8	11.1	10	20.8
35-44	1	1.4	17	35.4
45-54	1	1.4	10	20.8
55 and over	0	0.0	10	20.8
Total	72	100.0	48	100.0[1]
Average	23 years old		43 years old	

[1] 99.9 rounded to 100.0

4.42 Marital status, country of origin, occupation and race

Only colour was indicated in the file. Out of our 120 subjects, three cases involved the same black prostitute.

4.43 Place of residence

Table 94 shows that most of the clients and prostitutes live in Quebec City or the immediate area.

TABLE 94

PROSTITUTES AND CLIENTS, BY PLACE OF RESIDENCE (N=120)

Role	Prostitute		Client	
Residence	n	%	n	%
Quebec City and immediate area	70	97.2	42	87.6
Quebec and outlying area[1]	0	0.0	51	0.4
Montreal and area	1	1.4	1	2.0
Unknown	1	1.4	0	0.0
Total	72	100.0	48	100.0

[1] St. Jean Chrysostome, St.-Raymond de Portneuf, Ste-Anne de Beaupré, Ste-Gertrude and St-Emile.

4.44 Criminal record

From the file, we were only able to compile a list of repeat offenders under section 195.1 because files were classified by incidents of 195.1. As Table 95 shows, there was only one client who was a repeat offender. Among the 47 prostitutes, 12 had been arrested more than once: seven twice, two of them three times, two of them four times and one of them nine times.

4.45 Failure to appear

Table 96 shows that all the clients appeared on the appointed date and that most prostitutes' cases were heard as scheduled.

TABLE 95

FILES BY NUMBER OF OFFENCES UNDER SECTION 195.1 AND INVOLVEMENT OF ACCUSED (N=120)

Involvement Number of offences	Prostitute n	 %	Client n	 %
1	35	74.5	46	97.9
2	7	14.9	1	2.1
3	2	4.3	0	0.0
4	2	4.3	0	0.0
9	1	2.1	0	0.0
Total accused	47		47	
Total offences	72	100.0[1]	48	100.0
Average number of offences per person	1.5		1.2	

[1] 100.0 rounded to 100.0

TABLE 96

FAILURE TO APPEAR BY INVOLVEMENT OF ACCUSED (N=120)

Involvement Default	Prostitute n	 %	Client n	 %
Yes	15	20.8	0	0.0
No	57	79.2	48	100.0
Total	72	100.0	48	100.0

4.46 Legal status of files

Table 97 shows us the legal status of the files at June 4, 1987. The files were classified as follows:

- inactive: file closed, that is verdict rendered and/or the fine paid (no jail sentence);
- put over: case not tried and put over pro forma for trial or verdict;

- bench warrant: bench warrant for failure to appear has not yet been served.

As can be seen, most files have been closed and only one case was pending because of failure to appear.

TABLE 97

LEGAL STATUS OF CASES AS AT JUNE 4, 1987 BY INVOLVEMENT OF ACCUSED (N=120)

Involvement Status	Prostitute		Client		Total	
Inactive	67	93.1	47	97.9	114	95.0
Put over	4	5.6	1	2.1	5	4.2
Default warrant	1	1.3	0	0.0	1	0.8
Total	72	100.0	48	100.0	120	100.0

4.5 Statistics on the disposal of the 120 cases studied

4.51 Legal status before first appearance

Table 98 shows us whether the offenders were detained, released on a promise to appear or summonsed, before their first appearance. We note that very few of the offending prostitutes were held. When that was the case, it was generally after a failure to appear.

TABLE 98

LEGAL STATUS BEFORE APPEARANCE, BY INVOLVEMENT OF ACCUSED (N=120)

Involvement	Prostitute		Client		Total	
Status	n	%	n	%	n	%
Detained	15	20.8	0	0.0	15	12.5
Released on promise	55	76.3	46	95.8	101	84.2
Released on summons	2	2.9	2	4.2	4	3.3
Total	72	100.0	48	100.0	120	100.0

4.52 Number of scheduled appearances

Table 99 shows that the prostitutes appeared more often than the clients. We have omitted the five appearances scheduled for people with active files whose first appearance had not occurred, and that of the accused who had failed to appear and whose bench warrant had not yet been served. The table thus shows information for the 114 closed cases.

TABLE 99

NUMBER OF SCHEDULED APPEARANCES, BY INVOLVEMENT OF THE ACCUSED (N=114)

Involvement	**Prostitute**		**Client**		**Total**	
Appearances	**n**	**%**	**n**	**%**	**n**	**%**
1	33	49.3	43	91.5	76	66.7
2	23	34.3	4	8.5	27	23.7
3	8	11.9	0	0.0	8	7.0
4	2	3.0	0	0.0	2	1.8
5	1	1.5	0	0.0	1	0.8
Total cases	67	100.0	47	100.0	114	100.0
Total appearances	116		51		167	
Average number of appearances	1.7		1.1		1.5	

4.53 Final plea

As only seven of the prostitutes and one of the clients changed their pleas from not guilty to guilty, in Table 100 we show only the 114 final pleas. In six cases, no plea has yet been entered. As can be seen, the accused or their lawyers have not yet found a technical weakness in the law. As to a challenge of constitutionality, no one has attempted this since Cossette on May 23, 1986.

TABLE 100

FINAL PLEAS, BY INVOLVEMENT OF ACCUSED (N=114)

Involvement **Pleas**	**Prostitute** **n**	 **%**	**Client** **n**	 **%**	**Total** **n**	 **%**
Guilty	58	86.6	45	95.7	103	90.4
Not guilty	9	13.4	2	4.3	11	9.6
Total	67	100.0	47	100.0	114	100.0

4.54 Verdicts

The 103 accused who had pleaded guilty were all found guilty. As to the eleven who decided to stand trial, Table 101 shows us most were found guilty.

TABLE 101

JUDGMENTS HANDED DOWN AFTER TRIAL, BY INVOLVEMENT OF ACCUSED (N=11)

Involvement **Judgment**	**Prostitute** **n**	 **%**	**Client** **n**	 **%**	**Total** **n**	 **%**
Guilty	5	55.6	1	50.0	6	54.5
Not guilty	3	33.3	1	50.0	4	36.4
Unknown[1]	1	11.1	0	0.0	1	9.1
Total	9	100.0	2	100.0	11	100.0

[1] The case was heard at the Court of Sessions of the Peace and we do not have the results.

4.55 Type of sentences

Table 102 shows the type of sentences for the 109 accused who were found guilty. As can be seen, most accused are fined.

TABLE 102

TYPE OF SENTENCES, BY INVOLVEMENT OF THE ACCUSED (N=109)

Involvement **Sentence**	**Prostitute**		**Client**		**Total**	
Fine	61	96.8	46	100.0	107	98.2
Prison	0	0.0	0	0.0	0	0.0
Fine + probation	1	1.6	0	0.0	1	0.9
Time served	1	1.6	0	0.0	1	0.9
Total	63	100.0	46	100.0	109	100.0

4.56 Details of sentences

Table 103 shows that the average fines are $108.38 for prostitutes and $102.17 for clients. The minimum fine was $20 and the maximum was $300 for a prostitute who had nine convictions. The nine fines of over $100 were for repeat offenders.

TABLE 103

FINES, BY INVOLVEMENT OF ACCUSED (N-108)

Involvement	**Prostitute**		**Client**		**Total**		**Total**
Fine	**n**	**%**	**n**	**%**	**n**	**%**	**$**
1- 50	13	21.0	1	2.2	14	13.0	595.00
51-100	38	61.3	42	91.3	80	74.1	7975.00
101-150	2	3.2	3	6.5	5	4.6	750.00
151-200	6	9.7	0	0.0	6	5.5	1200.00
201-250	0	0.0	0	0.0	0	0.0	0
251-300	3	4.8	0	0.0	3	2.8	900.00
Total sentences	62	100.0	46	100.0	108	100.0	
Total fines	$6720.		$4700.				$11420.00
Average fines	$108.38		$102.17				$ 105.74

IV IMPACT OF THE LAW ON JUVENILE PROSTITUTION

1 According to police and the Juvenile Court Crown attorney

Since January 1986, there have only been six cases of juvenile prostitution referred by the municipal police (four girls and two boys). As in other cities, most of the cases never reach the Juvenile Court Crown prosecutor because they are dealt with under the *Youth Protection Act*.

Of the six cases heard under the *Young Offenders Act*, four were given a year's probation and the two others were remanded in open custody for one and two months. The law has not, then, brought more young people into the criminal justice system, nor has it lessened juvenile prostitution. It has, however, allowed some young people to be referred for care.

As to numbers, the police estimated that juveniles regularly practising prostitution make up about one or two percent of the total, about ten at most.

2 According to social workers

We interviewed three officials from the Projet Intervention Prostitution Québec (the Quebec prostitution action project) (PIPQ), an agency formed in October 1985. According to their press release of March 31, 1987, there could be 500 to 800 young people from 12 to 20 years old who prostitute themselves, in arcades, downtown malls, restaurants and at the Gabrielle Roy Library. They include in their definition sexual exchanges with adults to get affection, a place to stay, a meal and so on. From our interviews and analysis of the report of activities for 1985-86, we learned that PIPQ had met with 110 young people in 15 months, 50 of them under 18. One of our respondents estimated there were five unknown cases for each known one, while the two others estimated there were about 50 juveniles who had not been reached.

The law seems not to have had an impact on street prostitution practices because of lack of enforcement, nor on the demand for services. There still seems to be as many young people who prostitute themselves, or might do so, if there is not enough education and prevention. This is why they want a major push to visit schools, summer camps and other places where 12- to 14-year-olds can be contacted.

V IMPACT OF THE LAW ON THE DEMAND FOR SOCIAL SERVICES

Only PIPQ offers specific services to prostitutes. Half their clientele are young people from 18 to 25 years old.

PIPQ is a parallel agency to the institutional network. It has six paid employees who approach young people in a non-threatening way and do not moralize or try to control them. Their work is basically focused on street prostitution where the young person's way of speaking and culture is respected. The workers stress the young person's capacity for change and offer the necessary services to make this possible, such as shelter, legal aid, help with going back to school, and so on.

PIPQ also stresses prevention with awareness programmes aimed at young people. But these activities have nothing to do with the law. Juvenile prostitution is the result of a combination of psychological, social and economic problems about which the law can do nothing.

VI THE LAW AND THE COMMUNITY

In order to find out the reaction to the bill in certain parts of the community, we interviewed a merchant whose business is right in the middle of the heterosexual prostitution area and representatives from the Réseau d'Action et d'Information des Femmes (women's action and information network) (RAIF).

The merchant has run his business for 20 years and knows all the prostitutes. He does not think that the law has changed life in the area. He thinks that prostitution is an arrangement between consenting adults and finds the harassment by police "ridiculous". He also feels repression is useless because he has not noticed any change in the number of prostitutes or clients.

RAIF is a volunteer organization which presented a brief to the Fraser Committee on March 2, 1984 asking for prostitution, such, to be criminalized, for names of clients to be made public and for compulsory rehabilitation of prostitutes through community work.

Following the Fraser report, the report from the Committee on the Status of Women and comments from prominent journalists, who depicted prostitution as a profession or job which is acceptable as long as no nuisance is caused, RAIF organized a petition and collected 482 names of people in favour of criminalizing prostitution. This petition was sent to Justice Minister John Crosbie, on June 18, 1986. For RAIF, the sale of one's body, even by the hour, should be as unacceptable as the sale of one's vote in an election.

Our respondents were not satisfied with enforcement against prostitution. They do not accept the law's underlying philosophy that prostitution is acceptable as long as it does not bother people. They consider that police action is insufficient and reflects an absence of will to eliminate this kind of exploitation of women. The police operations seem only to push prostitutes into escort agencies and massage parlours, against which very little action is taken.

For this reason, they are renewing their recommendation for criminalization of prostitution, which would change the acceptable image given it by the present law. They also demand harsher sentences for clients of juvenile prostitutes.

Conclusion

Street prostitution in Quebec is not a major problem and does not warrant priority action. The police generally act on complaints, which are rare. Judicially, there has not yet been any serious, organized challenge of the law. District restrictions are rare, as are cases of repeat offences. From February 1986 to June 1987, there were 120 requests to initiate proceedings. Almost 90% pleased guilty and the average fine was $105.00. Finally, most respondents, except those from RAIF, favoured decriminalization with regulation.

CONCLUSIONS FOR THE THREE MUNICIPALITIES STUDIED

We were given a mandate to evaluate Bill C-49, which is aimed at controlling soliciting in public for the purposes of prostitution, in Montreal, Trois-Rivières and Quebec. The principal objective of this bill was to reduce communication for the purposes of prostitution in public places. Secondary objectives were to apply the law equally to prostitutes and clients, and to make enforcement easier by making evidence less difficult to obtain. To achieve our purpose, we interviewed 135 people from the prostitution milieu, the police and judicial enforcement systems, social agencies or organizations and the community. Figure 7 shows the complete breakdown of respondents for the three municipalities studied.

For each city, we did analyses of police and/or court statistics, significant verdicts, the newspapers and classified advertisements. We also carried out systematic counts.

The new section 195.1 of the Criminal Code, which was given Royal Assent on December 20, 1985, defined soliciting as communication for the purpose of obtaining or offering sexual services for money in a public place. It allowed for the arrest of the client and the prostitute and defined a vehicle in public view as a public place. This section replaced the old section 195.1, which was almost unusable since the *Hutt decision*, in which the Supreme Court of Canada ruled in 1978 that soliciting must be persistent and pressing to be an offence. This judgment had the effect of paralysing the country's police forces.

Situation before Bill C-49

In Quebec, only Montreal was able to continue making arrests by passing or amending a municipal by-law. It was mainly with municipal by-law 333-3(a) that the city could theoretically exercise some control over prostitutes. This by-law prohibited the offer of sexual services and also other services in public places without a permit. But it was not much of a deterrent since prostitutes could not be detained, imprisoned or put under district restrictions or on probation. Fines were low (between $75 and $300) and clients were not targets. This meant that most prostitutes pleaded guilty and went right back to work. In 1985, 1,189 prostitutes were arrested under this by-law. In that year, no arrests were made in Trois-Rivières or Quebec City.

On December 20, 1985, the Parliament of Canada provided a new instrument whose use, effectiveness and impact we have evaluated.

FIGURE 7

RESPONDENTS IN MONTREAL, TROIS-RIVIÈRES AND QUEBEC (N=135)

Category	**Number**
Chief of legal services	1
Police	43
- municipal (38)	
- provincial (QPF) (5)	
Judges	5
Crown attorneys	5
Clerk	1
Defence attorneys	4
Social or medical workers dealing with adults	5
Citizens	5
Business people	5
Juvenile prostitution specialists or youth workers	15
Owners of nude dancer placement agencies	3
Hotel security directors	2
Adult heterosexual prostitutes	19
Adult homosexual prostitutes	5
Adult transvestite/transsexual prostitutes	7
Juvenile prostitutes	1
Clients	6
Facilitators	3
Total	135

Degree of use of s.195.1

As of September 30, 1987, the law was recognized as constitutional and had been enforced in the three cities we studied. But the existence of a law does not necessarily mean it is used, as is shown by the few arrests made in Trois-Rivières and Quebec City.

Only in Montreal was the law systematically used. Prostitution is seen as a more serious problem there than in the other cities because of the greater numbers, its visibility and vulgarity, as well as the crime and nuisance associated with it, according to police and Crown attorneys.

Application of the law exclusively to street prostitution

Trois-Rivières and Montreal have tried to use section 195.1 in clubs and bars. In Montreal, most of these cases are pending because the accused preferred to challenge the law's constitutionality, rather than its enforcement in bars. Consequently, no judgment enables us to predict whether this kind of offence would bring a guilty verdict in the courts. The judges were divided as to the appropriateness of such a charge. The attorneys for the Quebec Police Force were convinced that it was not appropriate.

In contrast, the Crown attorney in Trois-Rivières tried to use section 195.1 in clubs, rather than throwing out cases under section 193.1 or 193.2 where he felt there was insufficient evidence. The trial court judge acquitted six dancers, basing his ruling on the fact that soliciting in bars could scarcely be a nuisance to those who regularly went there. But the Court of Appeal reversed this verdict in January 1988. These cases are more the result of chance, rather than the expression of a firm intention to fight prostitution in clubs by using section 195.1. Because of this, in future references to Trois-Rivières, we shall confine ourselves to street prostitution.

Slight decrease in the number of prostitutes in public places

In Quebec and Trois-Rivières, reducing prostitution in public places was not a goal, so the numbers have not been affected by enforcement of C-49.

In Montreal, however, reducing street prostitution was an objective closely allied with reducing criminal behaviour. According to the majority of respondents, there seems to have been some decline in the number of street prostitutes. Estimates of the percentage of this decline range from 10% to 70%, with consensus that the drop is more significant in the daytime than at night.

But most police have also noticed some movement to other parts of the city and a minimal amount of movement into other kinds of prostitution. If we analyze these phenomena overall and add the results of our observations, we have to conclude that police estimates are correct: there has been no significant drop in soliciting in public places, and in this sense, the law would not yet seem to have achieved its objective.

The only official statement, we recall, reports a decrease in numbers of street prostitutes in the area of the "Main". A tactical information report, echoed by several respondents, mentions that in 1985, there were about 75 to 100 prostitutes in this area at peak hours, while about 50 were counted in February 1987. This number was confirmed in June and July 1987, and corresponds roughly with our intentionally conservative counts.

If the 1985 estimates are correct, there has been a drop of 25 to 50 prostitutes at night. This number may correspond to those who have moved to other parts of the city, or who solicit in hotel bars, in the bars and restaurants on the "Main", or through the windows of the latter. In fact, police showed us the movements to the streets adjacent to the principal prostitution area: to Ste-Catherine near Drummond, to Pine Avenue, Ontario and St. Catherine in the east end, and to Champlain. They also noticed "hitchhikers" on the various main roads heading north. Security managers in some hotels noted some street prostitutes in their hotels, and we observed cases of soliciting inside some restaurants on the "Main" and through their windows.

These known movements may involve one or two prostitutes, as on Berri and St. Catherine, or on streets which are good for hitchhiking, but it may also involve up to about ten, as on Champlain, for example. If we add to all these known movements some of the unknown ones, we could easily reach the 25 to 50 mentioned above. This is all the more likely since the police have noticed several new faces during crackdowns.

Finally, the small increase in other forms of prostitution supports our theory. In fact, police have not seen any significant movement into massage parlours, escort agencies or use of classified advertisements.

Discriminatory enforcement of the law

The bill has not yet fully achieved its objective. Police activity has concentrated mostly against prostitutes, since out of 3,956 arrests, clients represented 35% (1,383 persons, Table 9a). The shortage of staff and, in particular, of policewomen explains this disparity which police are trying to correct. The percentage of clients arrested went from 15.8%, as of October 31, 1986, to 35.1%, as of October 31, 1987. In numbers of clients arrested, the increase is 291% (720 vs. 184, Table 9a).

It should be stressed that, at present, only the clients of heterosexual prostitutes are targeted and female prostitutes are subject to more crackdowns than male prostitutes. The police are aiming mainly at cleaning up the downtown area.

Ease of enforcement of the law

As street prostitution is not considered a problem by the police of Quebec City and Trois-Rivières, the law is not used much and the number of arrests is low. Four persons had been arrested for prostitution in Trois-Rivières in 17 months, while in Quebec City, the number for the same period was 120.

In Montreal, on the other hand, the number of arrests is high, given the shortage of police personnel. Since the beginning of operations on January 14, 1986, 3,956 persons have been arrested. In 1987, the police, with six fewer investigators, made 714 more arrests, an increase of 44% (2,335 vs. 1,621, Table 9a).

We could conclude, then, that the most vital evidence needed, communication, makes the work of police, who can and want to use undercover officers, easier and that the number of clients arrested depends mainly on whether police can and are willing to deploy undercover policewomen.

In terms of charges, the rate is almost 100% in the three cities and demonstrates the close relationship between police and Crown attorneys, or at least a good understanding of the evidence required following instructions received from Crown attorneys.

The law is also effective in terms of rate of subjects found guilty, since the rate is 100% in Trois-Rivières and almost 100% in Quebec City and Montreal.

The situation in Montreal is more complex and warrants some explanation. In our sample, 97.5% of the clients who entered a final plea were found guilty after having pleaded guilty or standing trial (Tables 20 and 22). For prostitutes, it is more difficult to evaluate the bill's success because of the number of bench warrants still pending and those who only entered a not-guilty plea pending a ruling on constitutionality. The conviction rate is 100% when only prostitutes who entered a final plea are considered (Table 22).

We can thus conclude that the practical effectiveness rate is 98.9% (Tables 20 and 22) for clients and prostitutes, when constitutional challenges are omitted. As Mr Justice Massé upheld the constitutionality of the law on September 30, 1987 and found the accused guilty, we can assume that the theoretical effectiveness in those cases is also 98.9%, since in our sample, only two accused won a trial bearing on a technicality of the law's application and none on constitutionality. This conclusion is based on the theory that the constitutionally-motivated not-guilty pleas will change to guilty, unless there are new constitutional challenges before other trial court judges.

Relative effectiveness of police and judicial enforcement

If one of the objectives of the penal system is not solely to arrest offenders, but to deter them from returning to prostitution, we must conclude that this goal had not been achieved after 18 months of enforcement. Police continued to arrest numerous repeat offenders and the number of prostitutes had not decreased by much. This indicates that the newcomers have not been deterred, unless new prostitutes are constantly coming to replace those who have been deterred. We have no systematic information on this subject.

Two things lead us to believe that the deterrence is minimal: the lack of objective severity of sentences for first offences and the fact that the enforcement process is not perceived as sufficiently upsetting.

As to sentences, the two clients in Trois-Rivières were fined $100 and the prostitutes $87.50 on average. In Quebec City, clients paid an average fine of $102 and prostitutes, $108.

In Montreal, where the fines are higher ($250 to $1,200), clients paid an average fine of $287.50 and the prostitutes $368.65 ($301.06 for a first offence and $482.85 for subsequent offences). Our figures show that in ten months (December 1986 to September 1987), the 530 different female prostitutes apprehended were arrested an average of 1.8 times for average fines of $869 (1.8 x $482.85). In our opinion, it would be difficult to believe that these amounts alone can be a deterrent. In comparison with income (a minimum of $100 per hour), $869 is not a high enough amount, even if the prostitutes find it to be so when they are paying the fine.

On the other hand, it is possible that jail has a deterrent effect, but we cannot confirm this because none of our 31 respondents had been jailed. In our sample, 21% of the prostitutes sentenced had been given an average of 31.6 days. Such sentences were only given to chronic offenders who have already been given shorter sentences. We believe that most are probably too established in the business to be deterred by such sentences. With an average of 1.8 arrests for a period of ten months, a prostitute only runs the risk of being jailed after 20 months ‾ that is, after a third offence, and only if her offences are frequent during that time. This means that prostitutes have had time to adapt to the risks of the profession.

Finally, we want to make clear that 30% of the prostitutes in our sample had not yet come to trial because of the challenge to the law's constitutionality, and the impact of sentences has not yet been felt.

As for police and court enforcement, interviews with arrested clients and stories from police lead us to believe that being arrested, charged and sentenced is sufficiently upsetting for some clients to deter them from repeating their offence, at least temporarily. We also believe that being arrested in the act is traumatic for the average citizen caught naked in his car by two policemen.

The fear of being detained for repeat offences, or of receiving a summons at home or a bill from the court, may certainly deter a married client (53.7% of our sample), or an occasional client who has never been in trouble with the law. For how long? We have no way of telling. One of the Crown attorneys reminded us of the maxim: "fear is the beginning of wisdom." But one of the supervisors reminded us that "nothing can stop a guy once he is hot to trot."

As for active prostitutes, our information indicates that they are not disturbed by the judicial process. The arrests and fines, few in number for most of them, are considered a normal business risk. Only pre-appearance detentions may have a certain effect on newcomers, or on those who have children. We must point out that these remarks apply only to the prostitutes we questioned who are still working after several years. Perhaps enforcement may have discouraged some newcomers. We have no information on this subject.

Furthermore, our research in 1984 indicated that a great number of prostitutes were under the influence of alcohol and/or drugs. This is apt to dull the impact of a process which otherwise might be a deterrent.

On the other hand, we must mention that district restrictions have caused a number of the prostitutes whom we questioned to cut back or temporarily give up their activities.

Minimal impact on movement into other kinds of prostitution

Because prostitutes are not very active there, no one in Trois-Rivières reported that the law had affected movement into other forms of prostitution. In Quebec City, there has been an increase in escort agencies and massage parlours involving only one or two prostitutes.

In Montreal, police report there has been very little movement into massage parlours. They say that street prostitutes would not have the right physical appearance or personality for these more structured, more expensive or more refined forms of prostitution. Our analysis of classified advertisements also shows that the offer of sexual services, rather than increasing since Bill C-49, has decreased by 37.1%.

Uncertainty about the extent of pimping

On the subject of pimpimg, the results of our interviews leave some questions unanswered. When we started our research, the majority of respondents and prostitutes had convinced us that Montreal prostitutes were too independent to let exploitative pimps control them. But a minority of respondents claimed the contrary, based on their various experiences on the street or in court.

At the end of our research, we learned that four policewomen, acting as undercover agents in an "Operation Client", had been approached by pimps and threatened after refusing their services. All of the following theories are thus possible:

- our most recent information may have overestimated the size of the problem;
- this was only a coincidence;
- there may have been an increase in pimping between the start and finish of our research;

- there may have always been many pimps, but unknown to the police, who were too busy combatting prostitutes and clients;
- there may always have been many pimps and the use of policewomen undercover would enable us to verify how widespread is the problem;
- our early sources underestimated the scope of the problem.

Summary of recommendations

In 1984, the majority of respondents from the three cities, including the police, considered that criminalization was the best way to deal with prostitution. In 1987, however, the majority chose decriminalization with provincial or municipal regulation.

This difference perhaps may be explained by the fact that in 1984, the threat to morality played more of a role in people's perceptions than in 1987, and that at present, the objective nuisances alone are not serious enough to justify criminalization. The Fraser report may have also influenced enforcement agents by proposing that the objective nuisances be controlled by regulation specifically for that purpose.

Prematurity of evaluation

To conclude, we believe it is worthwhile to stress this point which is also a limit to the scope of our findings.

As several of our respondents mentioned, the time between the adoption of the law and our evaluation is too short to accurately estimate its effects on movement of prostitutes to other areas or into other forms of prostitution, the deterrent effect on clients, the increase of prostitutes' involvement in crime, the use of pimps and so on.

Several of the systemic controls have been in place for less than year, so that reactions in the milieu are still wavering and the way in which they will ultimately develop is unknown. We are just beginning to feel the undesirable consequences of certain measures, such as district restrictions and enforcement those who break release conditions.

Systematic crackdowns have been carried out mainly since January 1987, and systematic arrests of clients since December 1986; systematic control of homosexual prostitution did not really start until May 1987. District restrictions, followed by enforcement of conditions of release, have been applied since November 1986. The challenge to the constitutionality of the law, followed by systematic not-guilty pleas, did not occur until 1987. A ruling was handed down on September 30, 1987. The lawyers appealed and most of the cases were put over to March 1988. Also, we do not yet know the result of the only case challenging the legality of using an undercover policewoman, on which the Quebec Court of Appeal will have to rule in the fall of 1988. Finally, we are only beginning to grasp the effect which AIDS could have on prostitution practices and police work. The first prominent articles about the arrests of prostitutes carrying the virus, or suffering from AIDS, appeared on April 25, 1987 and September 19, 1987 (appendices 20 and 21), and crackdowns on the homosexual prostitution milieu are not yet systematic. It could be that fear of AIDS will be more of a deterrent to clients than all the legal measures. Or, on the other hand, enforcement could decrease more and more because of fear of infection. Only time and new research bearing specifically on this subject will tell us whether the law or AIDS will prevail and how this will come about.

BIBLIOGRAPHY

BRISEBOIS, P (1987)
Synthèse des effets de la loi C-49 sur la prostitution publique. Montreal, MUCPD.

DORAIS, M, MENARD, D (1987)
Les Enfants de la Prostitution. Montreal:VLB 139 pages.

FRASER *et al* (1985)
Pornography and Prostitution in Canada. Vol 2. Ottawa: Department of Supply and Services Canada.

GEMME *et al* (1984)
A Report on Prostitution in Quebec. Ottawa: Department of Justice. 361 pages.

TREMBLAY, B *et al* (1987)
"Rapport statistique des activités de la Cour Municipale de la Ville de Montréal pour l'année 1986 et Comparaison avec l'année 1985". Montreal: Municipal Court, 125 pages.